

# Conversation Contents

[EXTERNAL] SEIS

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Wed Mar 28 2018 15:15:54 GMT-0600 (MDT)  
**To:** Kathy Benedetto <kbenedetto@blm.gov>  
**Subject:** [EXTERNAL] SEIS

I'm hearing that the Alton SEIS may be in your offices. Any truth to the rumor? Do we know where it is and timing? Thank you. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496

**"Benedetto, Kathleen" <kbenedetto@blm.gov>**

---

**From:** "Benedetto, Kathleen" <kbenedetto@blm.gov>  
**Sent:** Thu Mar 29 2018 07:45:29 GMT-0600 (MDT)  
**To:** Allen Freemyer <allen@adfpc.com>  
**Subject:** Re: [EXTERNAL] SEIS

Came in last night or this morning

On Wed, Mar 28, 2018 at 5:15 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

I'm hearing that the Alton SEIS may be in your offices. Any truth to the rumor? Do we know where it is and timing? Thank you. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB

1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Thu Mar 29 2018 08:21:51 GMT-0600 (MDT)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** Re: [EXTERNAL] SEIS

Thank you

Allen D. Freemyer  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-744-2409

On Mar 29, 2018, at 9:45 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Came in last night or this morning

On Wed, Mar 28, 2018 at 5:15 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

I'm hearing that the Alton SEIS may be in your offices. Any truth to the rumor? Do we know where it is and timing? Thank you. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

# Conversation Contents

## Critical Minerals Comments

### Attachments:

/2. Critical Minerals Comments/1.1 Pershing Gold Comments on Critical Minerals (Signed) 03152018.pdf  
/2. Critical Minerals Comments/1.2 Women's Mining Critical Minerals Comments.pdf  
/2. Critical Minerals Comments/1.3 2018-03-19 WEX Draft Critical Minerals Comments.pdf  
/2. Critical Minerals Comments/3.1 Pershing Gold Comments on Critical Minerals (Signed) 03152018.pdf  
/2. Critical Minerals Comments/3.2 Women's Mining Critical Minerals Comments.pdf  
/2. Critical Minerals Comments/3.3 2018-03-19 WEX Draft Critical Minerals Comments.pdf

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Tue Mar 20 2018 09:41:05 GMT-0600 (MDT)  
**To:** Kathy Benedetto <kbenedetto@blm.gov>  
**Subject:** Critical Minerals Comments  
Pershing Gold Comments on Critical Minerals (Signed)  
**Attachments:** 03152018.pdf Women's Mining Critical Minerals Comments.pdf  
2018-03-19 WEX Draft Critical Minerals Comments.pdf

Kathy,  
These have all been filed through the portal but wanted to bring them to your attention. Thank you for your time today. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496

**"Benedetto, Kathleen" <kbenedetto@blm.gov>**

---

**From:** "Benedetto, Kathleen" <kbenedetto@blm.gov>  
**Sent:** Tue Mar 20 2018 09:54:15 GMT-0600 (MDT)  
**To:** Allen Freemyer <allen@adfpc.com>  
**Subject:** Re: Critical Minerals Comments

Thanks

On Tue, Mar 20, 2018 at 11:41 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

These have all been filed through the portal but wanted to bring them to your attention. Thank you for your time today. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**"Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>**

---

**From:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Sent:** Tue Mar 20 2018 16:28:42 GMT-0600 (MDT)  
**To:** "Nichols, Ryan" <[ryan\\_nichols@ios.doi.gov](mailto:ryan_nichols@ios.doi.gov)>  
**Subject:** Fwd: Critical Minerals Comments  
Pershing Gold Comments on Critical Minerals (Signed)  
**Attachments:** 03152018.pdf Women's Mining Critical Minerals Comments.pdf  
2018-03-19 WEX Draft Critical Minerals Comments.pdf

----- Forwarded message -----

From: **Allen Freemyer** <[allen@adfpc.com](mailto:allen@adfpc.com)>  
Date: Tue, Mar 20, 2018 at 11:41 AM  
Subject: Critical Minerals Comments  
To: Kathy Benedetto <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>

Kathy,

These have all been filed through the portal but wanted to bring them to your attention. Thank you for your time today. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496



--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318



March 15, 2018

Draft Critical Minerals List  
MS-1621

U.S. Department of the Interior  
1849 C Street NW  
Washington, DC 20240

<http://www.regulations.gov> DOI-2018-0001

**RE: Comments on the Draft Critical Minerals List Developed in Response to Executive Order No. 13817 and Secretarial Order No. 3359, USGS Open File Report 2018-1021, FR Vol. 83, No. 33, Page 7065-68**

## **I. Introduction**

Pershing Gold Corporation ("Pershing Gold") is pleased to submit these comments on the Department of the Interior's ("DOI's") draft critical minerals list and the U.S. Geological Survey ("USGS") Open File Report 2018-1021 ("the OFR"). We want to thank President Trump and Secretary Zinke for their vision and leadership in recognizing the importance of developing domestic sources of the minerals that are essential to the nation's technology, manufacturing sector, the economy, and national defense. This letter responds to DOI's request for comments (FR Vol. 83, No. 33, Page 7065-68) seeking input on the make-up of the draft list and offers a rationale for expanding this list.

As discussed in detail below, Pershing Gold is concerned that the draft critical minerals list is incomplete and was developed using a flawed methodology. We take no exception to any of the 35 minerals included in the draft list but find that the list omits many other equally important minerals, including but not limited to precious and base metals, that are used in many essential technology and infrastructure applications, which qualifies them as critical minerals pursuant to President Trump's definition of critical minerals.

Because the USGS' methodology for developing the draft critical minerals list mainly focuses on foreign sources of minerals, it does not give adequate consideration to domestic minerals and the federal policies currently impeding domestic mineral exploration, development, and production. The regulatory and land use policies that constrain mineral exploration and development – especially on the nation's public lands – are a key reason the country is so inappropriately reliant on foreign sources of minerals. The USGS must consider these policy impediments in a revised OFR and in an expanded critical minerals list.

President Trump's December 2017 Critical Minerals Executive Order ("EO") No. 13817 and Secretary Zinke's Secretarial Order ("SO") 3359 clearly establish this Administration's policy directive to increase the supply of domestic minerals. Neither the draft list does nor the OFR adequately respond to the Administration's mandate to reduce the nation's reliance on foreign minerals by increasing the exploration for and development of domestic minerals resources.

Additionally, the draft critical minerals list does not comply with the National Materials and Minerals Policy, Research and Development Act of 1980 (“1980 Act”). (30 U.S.C. §§ 1602 – 1605). The 1980 Act requires the President and the Secretary of the Interior to develop comprehensive programs that address the nation’s needs for reliable supplies of domestic minerals. As noted in SO 3359, this law provides the statutory authority for the critical minerals policies articulated in EO 13817 and SO 3359.

This Administration’s domestic mineral policies are extremely important to Pershing Gold’s plans to put the Relief Canyon Mine in Pershing County, Nevada back into production. The Relief Canyon Mine will become Pershing Gold’s first mining operation. Since acquiring the Relief Canyon property in 2011, we have invested over \$75 million in expanding the gold and silver resources, obtaining the necessary federal and state permits for a mining and heap leaching operation, and readying this site for production. Pending acquisition of the necessary funding, we anticipate we will start mining in late 2018.

Pershing Gold strongly supports President Trump’s and Secretary Zinke’s efforts to streamline the mineral exploration and development permitting process. Like most junior mining companies, Pershing Gold relies on investment capital to fund our mineral exploration and development activities. Measures that would reduce permitting timelines, costs, risks, and uncertainties will make it easier for Pershing Gold and other similarly-situated junior mining companies to raise the necessary capital to explore for and develop mineral projects.

The Relief Canyon Mine is located on Nevada’s checkerboard area of alternating sections of BLM-administered and private lands. The mine produced gold and silver in the late 1980s. Pershing Gold’s efforts to redevelop this mine will create over 200 much-needed jobs in Pershing County. The gold and silver that we will produce are two minerals that are critically important to 21<sup>st</sup> century technologies. These precious metals are used in all modern electronic devices, from cell phones to tablets to computers and in GPS and satellite technologies. Silver and gold also have medical applications including medical imaging technology to diagnose and treat illnesses, antimicrobial bandages, clothing, pharmaceuticals, medical equipment like pacemakers and heart stents.

As discussed in more detail in Section II, the Relief Canyon Project could become a future source of fluor spar, one of the minerals on the USGS’ draft critical minerals list. Fluor spar (also called fluorite) is associated with the gold mineralization at Relief Canyon. In fact, the site was originally prospected for fluorite. Although Pershing Gold has not focused on exploring for fluorite on our lands, there are potential fluorite mineral targets that could be explored with the proper economic and policy incentives.

## **II. Host Minerals are an Important Source of Byproducts Critical Minerals**

The OFR distinguishes between critical minerals and their mineral hosts, which are excluded from the draft critical minerals list. This academic distinction is not relevant to EO 13817. Satisfying the mandates in EO 13817 requires expanding the critical minerals list to include the minerals that host critical minerals. Exploration and development of host minerals like gold, silver, copper, zinc,

lead and others are the most important – if not the only – way to find and obtain many of the listed critical minerals. Additionally, these host minerals are essential to the manufacturing of products critical to our economy and national security and must be considered critical pursuant to the critical minerals definition in EO 13817.

The OFR explains that many of the minerals on the draft critical minerals lists are not typically developed on their own. Usually they are produced as byproducts from the production of other “host” minerals like gold, copper, nickel, zinc, and others:

“Many commodities are not mined directly, but are instead recovered during the processing, smelting, or refining of a host mineral and are, therefore, deemed “byproducts.” ... Byproducts are almost never independently economically viable to mine, thus relying on the economics of the material being mined, which may then yield an economically recoverable concentration of the byproduct...” (OFR at 9-10).

The USGS has omitted the host minerals from the draft critical minerals list despite the fact that byproduct critical mineral production is inseparable from producing the host minerals. This omission renders the draft list incomplete and unresponsive to the directives in EO 13817 because without the host mineral production there would be no production at all of many byproduct critical minerals. USGS acknowledges that “...strategies to increase the domestic supply of these [critical mineral byproduct] commodities also should consider the mining and processing of the host materials because enhanced recovery of byproducts alone may be insufficient to meet U.S. consumption” (OFR at 10). This acknowledgement does not go far enough. Compliance with EO 13817 requires the USGS to add the host minerals to the critical minerals list because the host minerals are a significant – and in some cases the only – source of many of the critical minerals already on the draft list.

The Relief Canyon gold-silver deposit is just one example of how gold, which the OFR classifies as a host mineral rather than a critical mineral, is associated with one or more critical minerals. The Relief Canyon Mine area was originally prospected for fluorite. Fluorspar (another name for fluorite) is one of the 35 critical minerals on the USGS’ draft list. Pershing Gold’s exploration drilling at Relief Canyon shows that fluorite and gold mineralization occur together in many drill holes in which zones of fluorite mineralization typically contain gold.

Despite the fact that Pershing Gold’s geologists believe there are fluorite mineral targets in and near Relief Canyon, our exploration dollars at Relief Canyon are solely devoted to looking for gold. We have never explored for fluorite despite its association with gold because there are no economic drivers to support a fluorite exploration program.

Like nearly all U.S. exploration and mining companies, Pershing Gold’s business model focuses on the exploration, development, and processing of host minerals (in this case precious metals). We have not evaluated whether it would be feasible to explore for and develop fluorite or other byproduct critical minerals like antimony and arsenic, which are also associated with the Relief Canyon gold deposit. There are no economic incentives to look for fluorite or other critical

minerals. We would not be able to interest the investment community in financing a critical minerals exploration program at Relief Canyon or on other lands that Pershing Gold controls.

Because most mineral exploration capital is spent looking for host minerals like gold, silver, copper, etc., the best – and probably the only – way to increase the nation’s supply of byproduct critical minerals in the foreseeable future is to increase exploration, development, and production of host mineral deposits. Encouraging private-sector exploration for host mineral deposits of gold, silver, copper, lead, zinc, nickel, etc., by eliminating the permitting and land tenure barriers to mineral exploration and development discussed in the previous sections would better leverage this investment of private capital. Addressing these problems, as EO 13817 requires, would likely lead to increased investment in mineral exploration and development of domestic host mineral deposits that contain some of the critical minerals on the draft list.

### **III. Federal Policies Currently Impede Domestic Mineral Production and Increase the Nation’s Net Minerals Import Reliance**

#### **A. The Protracted and Costly Permitting Process**

President Trump has correctly identified the permitting process as a key reason why the country is so reliant on foreign sources of minerals:

“Despite the presence of significant deposits of some of these [key] minerals across the United States, our miners and producers are currently limited by a lack of comprehensive, machine-readable data concerning topographical, geological, and geophysical surveys; permitting delays; and the potential for protracted litigation regarding permits that are issued. An increase in private-sector domestic exploration, production, recycling, and reprocessing of critical minerals, and support for efforts to identify more commonly available technological alternatives to these minerals, will reduce our dependence on imports, preserve our leadership in technological innovation, support job creation, improve our national security and balance of trade, and enhance the technological superiority and readiness of our Armed Forces, which are among the Nation’s most significant consumers of critical minerals.” (EO 13817 Findings at 1)

Pershing Gold strongly agrees that the protracted and uncertain permitting process for domestic mineral exploration and development – especially for mineral deposits on public lands – contributes significantly to the country’s reliance on foreign minerals. Consequently, the permit streamlining directives in EO 13817 and SO 3359 are important and much welcomed initiatives to address permitting delays, costs, risks, and uncertainties. Streamlining the permitting process would be an effective way to stimulate investment in the exploration and development of U.S. mineral deposits, capitalize upon our nation’s rich mineral endowment, and enable the country to become less reliant in the future on imports of foreign minerals.

I speak from firsthand experience that the U.S. permitting process chills investors’ interest in financing mineral exploration and development in the U.S. In my capacity as Pershing Gold’s CEO, I have spoken to hundreds of potential investors, bankers, and financial analysts from around



the world about the Relief Canyon Mine. Invariably, these conversations always turn to their perceptions that the U.S. permitting process stands as a significant barrier to timely mine development because it takes too long, costs too much, and is fraught with risk and uncertainty.

The investment community's perception that the U.S. permitting process is risky significantly limits the amount of capital available to junior mining companies like Pershing Gold for exploring and developing U.S. mineral deposits. It is important to recognize that U.S. projects compete with projects around the globe for access to capital. The federal permitting process puts U.S. projects and companies at a competitive disadvantage because investment capital preferentially flows to projects in jurisdictions that are perceived to have less burdensome permitting processes. The measures to streamline the permitting process mandated in EO 13817 and SO 3359 would go a long way towards de-risking project development and would stimulate investor interest in financing U.S. mineral exploration and development projects.

In 2013, the U.S. was tied with Papua New Guinea for last place in the length of time it takes to permit a mine in Behre Dolbear's<sup>1</sup> annual political risk assessment of the global mining industry. This assessment states:

“Permitting delays are the most significant risk to mining projects in the United States...[which are] negatively impacted by federal rules that they are bound to enforce resulting in a 7- to 10-year waiting period before mine development can begin.”<sup>2</sup>

The following year, Behre Dolbear deemed Canada, Australia, and Chile as the three countries with the fewest permitting delays and stated the following about the U.S. permitting process:

“Permitting delays are the most significant risk to mining projects in the United States. A few mining friendly states (Nevada, Utah, Kentucky, West Virginia, and Arizona) are an exception to this rule but are negatively impacted by federal rules that they are bound to enforce resulting in a seven to ten year waiting period before mine development can begin...Increasing competition for mineral resources favors investment in countries perceived to have the lowest political risk. Investment returns are heavily influenced by political risk and a lower risk profile invariably attracts preferential investment that is key to sustaining operations in this capital-intensive sector.”<sup>3</sup>

Similarly, in 2015 the Behre Dolbear study<sup>4</sup> found that the “onerous [U.S.] permitting process...creates sufficient uncertainty to sometimes destroy the viability of new projects.”

The challenges companies experience in attracting investment and securing financing in U.S. mineral exploration and development projects is one of the key reasons the country is so dependent on foreign sources of minerals. The lack of sufficient investment has significantly slowed down

---

<sup>1</sup> Behre Dolbear is an international consulting group specializing in mining.

<sup>2</sup> <http://www.akbizmag.com/Alaska-Business-Monthly/April-2013/Behre-Dolbear-Ranks-US-Last-in-Where-to-Invest-for-Mining/>

<sup>3</sup> <http://www.dolbear.com/wp-content/uploads/2016/04/2014-Where-to-Invest.pdf>

<sup>4</sup> [http://www.mining.com/wp-content/uploads/2015/08/WHERE\\_TO\\_INVEST\\_2015\\_08.pdf](http://www.mining.com/wp-content/uploads/2015/08/WHERE_TO_INVEST_2015_08.pdf)

the rate of discovery of new domestic mineral deposits. Consequently, the pipeline of new domestic mineral discoveries that can be developed into mines in the foreseeable future is nearly empty. The paucity of new discoveries will lead to a steady decline in U.S. mineral production and a concurrent increase in our reliance on mineral imports.

The USGS publishes annual Mineral Commodity Summaries (“MCS”) that include charts documenting the country’s reliance on imported minerals for that year. A comparison of the 1995<sup>5</sup> and 2016<sup>6</sup> charts shown in Exhibit I clearly illustrates a shocking increase in net import reliance between 1995 and 2016. This decline cannot be attributed to a lack of domestic mineral deposits that could potentially be developed into mines or indicate the country has unfavorable geology for hosting mineral deposits. In fact, it is very significant that the USGS – the country’s geological experts charged with understanding U.S. mineral deposits – does not suggest that the country suffers from an inadequate domestic mineral endowment or a lack of viable domestic mineral deposits.

Decades of unfavorable federal policies (e.g., regulatory burdens, permitting delays, and land use restrictions) have had a chilling effect on mineral investment and are the main reason the nation’s reliance on foreign minerals has dramatically increased during the last 20 years. The USGS draft list and OFR will not reverse or even slow this alarming trend. The OFR inappropriately omits an analysis of how unfavorable federal policies increase the country’s net import reliance and is thus an incomplete analysis of the status of the domestic mineral industry. The draft critical minerals list is similarly flawed and incomplete because it does not give adequate consideration to domestic mineral production. The USGS must revise the draft critical minerals list and the OFR to give much more consideration to how policies that foster timely exploration and development of the country’s mineral wealth could reduce our reliance on foreign minerals.

B. Land Use Policies Reduce Mineral Production and Increase the Country’s Net Import Reliance

The gold production statistics for Nevada demonstrate a significant decline in production starting in 2001 and provide a compelling example of how adverse federal policies cause a dramatic decline in production. Figure 1, which is the gold production bar chart from the Nevada Bureau of Mines and Geology’s 2016 Mineral Industry Report<sup>7</sup>, shows Nevada gold production peaked in 1998 at nearly 9 million ounces, when the gold price approached its lowest in recent times – under \$300 per ounce for most of the year,<sup>8</sup> – and has declined ever since then despite the dramatic increase in gold prices.

Although the factors contributing to the decline in gold production are complex, permitting delays and land tenure costs are two reasons for the reduced production. In 1993, Congress enacted the requirement for U.S. claim owners to pay a claims maintenance fee to keep their claims in good

---

<sup>5</sup> U.S. Geological Survey, 1996, Mineral commodity summaries 1995: U.S. Geological Survey, <https://minerals.usgs.gov/minerals/pubs/mcs/1996/nir.gif>.

<sup>6</sup> U.S. Geological Survey, 2017, Mineral commodity summaries 2017: U.S. Geological Survey, 202 p., <https://doi.org/10.3133/70180197>.

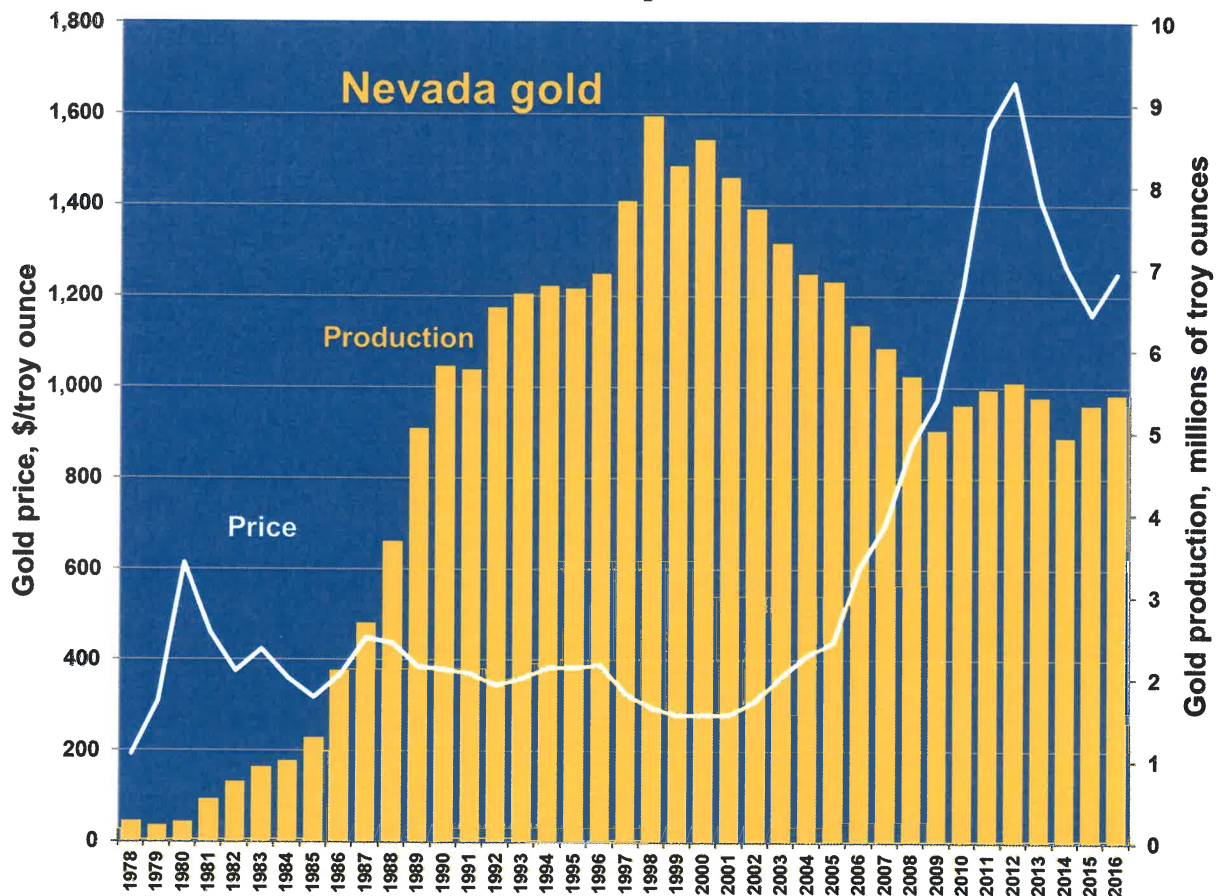
<sup>7</sup> <http://pubs.nbmng.unr.edu/The-NV-mineral-industry-2016-p/mi2016.htm>, Nevada Bureau of Mines and Geology

<sup>8</sup> <http://www.usagold.com/reference/goldprices/1998.html>

standing.<sup>9</sup> Prior to then, claimants had to conduct \$100 per claim of on-the-ground exploration or development work like sampling, drilling, sinking a shaft, etc. to hold their claims. The assessment work requirement advanced the owners' knowledge about the mineral character of the claims and led to discoveries of valuable mineral deposits on some claims.

The substitution of the claims maintenance fee in lieu of assessment work has siphoned enormous resources away from on-the-ground mineral exploration and development activities, which in turn has slowed the pace of discovery and the subsequent development of claims into operating mines. The high production levels in the 1997 – 2000 timeframe represent the discoveries that had already been made and were in the process of being developed into mines when the claims fee was enacted. Following enactment of the claims fee, the number of mineral discoveries began to shrink because payment of the claims maintenance fee diminished the funds available to explore attractive mineral targets and advance them to the mine development stage.

**Figure 1. Nevada Annual Gold Production Compared to the Gold Price<sup>10</sup>**



Another federal land use policy that the USGS should examine in a revised OFR is the adverse impact that land withdrawals and land use restrictions have on the nation's domestic mineral

<sup>9</sup> The claims maintenance fee was enacted in the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66 §§ 10101 to 10106, 107 Stat. 312, 405-07 (Aug. 10, 1993)

<sup>10</sup> Nevada Bureau of Mines and Geology, *op cit* at 6.



supply chain. Over 109 million acres<sup>11</sup> are Congressionally-designated Wilderness Areas that are off-limits to mineral activities. Some of these areas have mineral potential that will be forever unexplored and undeveloped unless Congress changes the status of these lands. Another 12.6 million acres are Wilderness Study Areas (“WSAs”), which BLM manages “to preserve wilderness characteristics so as not to impair the suitability of such areas for designation by Congress as wilderness regardless of their suitability for wilderness designation in a manner to prevent impairment of wilderness characteristics.”<sup>12</sup> This non-impairment criterion, which applies to all WSAs – including those that BLM has recommended as non-suitable for wilderness – severely limits mineral activities.

In September 1999, BLM recommended to Congress that roughly 8.8 million WSA acres were “non-suitable” for wilderness designation.<sup>13</sup> Unfortunately nearly 20 years later, Congress has not decided whether to confer wilderness status on those WSAs that BLM identified as suitable for wilderness designation and to release the non-suitable WSAs back to a multiple use management status. Congressional action on the WSAs is relevant to the issue of the nation’s reliance on foreign minerals because some WSAs have mineral potential. Restoring these lands to multiple use where exploration and mining can take place could lead to discoveries of mineral deposits that could become sources of critical minerals.

Policies that put lands off-limits to mining need to be carefully considered in the context of the Administration’s stated objectives to increase domestic mineral production and reduce the country’s net import reliance. With this in mind, USGS should revise the OFR to evaluate how the claims maintenance fee, land withdrawals and land use restrictions increase the nation’s reliance on foreign sources of minerals.

#### **IV. The Draft Critical Minerals List Must Comply with the Critical Minerals Definition in EO 13817**

Section 2 of EO 13817 defines a critical mineral as follows:

- (i) a non-fuel mineral or mineral material essential to the economic and national security of the United States;
- (ii) the supply chain of which is vulnerable to disruption; and
- (iii) that serves an essential function in the manufacturing of a product, the absence of which would have significant consequences for our economy or our national security.

The USGS’ methodology largely ignores this definition and fails to respond to the key directives in this EO. The resulting draft critical minerals list is thus inconsistent with the definition in EO 13817. The OFR and the draft list do not consider all of the minerals that are “essential to the economic and national security of the United States,” as the first clause in President Trump’s critical minerals definition requires.

---

<sup>11</sup> <https://www.fs.fed.us/managing-land/wilderness>

<sup>12</sup> BLM Manual 6330 at 1-2.

<sup>13</sup> [https://www.blm.gov/public\\_land\\_statistics/pls99/99pl5-9.pdf](https://www.blm.gov/public_land_statistics/pls99/99pl5-9.pdf)

Secondly, the OFR focuses mainly on foreign supply chain issues and fails to consider how the unfavorable federal policies discussed in Section III restrict development of the domestic supply chain for critical minerals. The main purpose of EO 13817 is to reduce the vulnerability of the critical mineral supply chain and the nation's reliance on foreign minerals. Unfortunately, the focus of the OFR is much narrower and does not adequately consider how increasing domestic production of the nation's mineral resources is the best way to minimize our reliance on foreign sources of minerals and reduce supply chain vulnerabilities.

Because the critical minerals definition in EO 13817 explicitly includes minerals essential to the manufacturing of products, the draft critical minerals list omits many essential minerals like gold, silver, copper, lead, zinc, etc. that are essential to many manufacturing, sectors, technology, and infrastructure. The USGS needs to expand the critical minerals list to include all minerals that are essential to the manufacturing sector in order to satisfy the third element of President Trump's critical minerals definition. As discussed in Section II, critical minerals are typically associated with host minerals including gold, silver, copper, lead, zinc, and others. The critical minerals list must include the host minerals.

Section 3 of EO 13817 establishes the following policy:

“It shall be the policy of the Federal Government to reduce the Nation's vulnerability to disruptions in the supply of critical minerals, which constitutes a strategic vulnerability for the security and prosperity of the United States. The United States will further this policy for the benefit of the American people and in a safe and environmentally responsible manner, by:

- (a) identifying new sources of critical minerals;
- (b) increasing activity at all levels of the supply chain, including exploration, mining, concentration, separation, alloying, recycling, and reprocessing critical minerals;
- (c) ensuring that our miners and producers have electronic access to the most advanced topographic, geologic, and geophysical data within U.S. territory to the extent permitted by law and subject to appropriate limitations for purposes of privacy and security, including appropriate limitations to protect critical infrastructure data such as those related to national security areas; and
- (d) streamlining leasing and permitting processes to expedite exploration, production, processing, reprocessing, recycling, and domestic refining of critical minerals.

USGS must revise and expand the critical minerals list and the OFR to respond to each element of the policy objectives in EO 13817 and President Trump's critical minerals definition. The resulting analysis must thoroughly evaluate domestic mineral resources and the factors currently impeding the exploration and development of the nation's mineral deposits – including host minerals like

copper, gold, silver, lead, and zinc. A revised and expanded critical minerals list must include all minerals essential to our economy and national security.

**V. The Critical Minerals List and the OFR Must Comply with the National Materials and Minerals Policy, Research and Development Act of 1980**

The National Materials and Minerals Policy, Research and Development Act of 1980 (“the 1980 Act”) at 30 U.S.C. §§ 1602 – 1605 establishes the importance of a stable supply of critical materials and “a need for a coordinated program to ensure the availability of materials critical for national economic well-being, defense, and industrial production.” The definitions and directives in EO 13817 and SO 3359<sup>14</sup> respond to the findings in the 1980 Act and implement its mandates.

In the 1980 Act, Congress found:

“the United States lacks a coherent national materials policy and a coordinated program to assure the availability of materials critical for national economic well-being, national defense, and industrial production, including interstate commerce and foreign trade.” (30 U.S.C. § 1601(7).

In response to this finding, Congress declared:

“...it is the continuing policy of the United States to promote an adequate and stable supply of materials necessary to maintain national security, economic well-being and industrial production with appropriate attention to a long-term balance between resource production, energy use, a healthy environment, natural resource conservation, and social needs.” (30 U.S.C. § 1602)

The broad definition of materials in Section 2(b) of the 1980 Act as minerals currently in use or likely to be used in the future for “industrial, military, and essential civilian needs...in the production of goods and services,” *requires* the Administration to develop comprehensive programs that address the nation’s needs for reliable supplies of domestic minerals. Both the President’s and the Secretary’s Critical Minerals orders respond to the mandates in the 1980 Act, which administrations from both parties have largely ignored for more than three decades. Pershing Gold applauds President Trump’s and Secretary Zinke’s efforts to develop policies to implement the directives in the long-neglected 1980 Act. Achieving compliance with the 1980 Act by implementing the directives in EO 13817 and SO 3359 would send a strong signal that the U.S. is open for responsible mineral exploration and development.

The 1980 Act requires the President to:

- Identify materials needs and assist in the pursuit of measures that would assure the availability of materials critical to commerce, the economy, and national security. (30 U.S.C. § 1602(1));

---

<sup>14</sup> Secretarial Order 3359 cites the 1980 Act as statutory authority for the order.

- Direct that the responsible departments and agencies identify, assist, and make recommendations for carrying out appropriate policies and programs to ensure adequate, stable, and economical materials supplies essential to national security, economic well-being, and industrial production; (30 U.S.C. § 1603(1));
- Support basic and applied research and development to provide for...advanced science and technology for the exploration, discovery, and recovery of nonfuel materials, (30 U.S.C. § 1603(2)(A))
- Assess Federal policies which adversely or positively affect all stages for the materials cycle, from exploration to final product recycling and disposal (30 U.S.C. § 1603(8));
- Promote and encourage private enterprise in the development of economically sound and stable domestic materials industries (30 U.S.C. § 1602(6)); and
- [Make] recommendations for the collection, analysis, and dissemination of information concerning domestic and international long-range materials demand, supply and needs. (30 U.S.C. § 1604(2)).

Consistent with the 1980 Act, Section 3 of EO 13817 establishes that it “shall be the policy of the Federal Government to reduce the Nation’s vulnerability to disruptions in the supply of critical minerals, which constitutes a strategic vulnerability for the security and prosperity of the United States.” The directives to the Secretary of the Interior in Section 3 of EO 13817 to: 1) identify new sources of critical minerals; 2) increase exploration, mining, concentration, separation, alloying, recycling, and reprocessing to improve the critical minerals supply chain; 3) provide better topographic, geologic, and geophysical data; and 4) streamline the leasing and permitting processes to expedite exploration, production, processing, reprocessing, recycling, and domestic refining of critical minerals comply with the mandates in the 1980 Act.

The directives in EO 13817 are very broad, seeking to reduce the country’s reliance on mineral imports from all countries – not just countries that are or may become hostile to the U.S. The OFR inappropriately dismisses imports from friendly countries like Canada, stating that mineral imports from Canada do not pose a supply risk (OFR at 9). However, compliance with the 1980 Act and satisfying the objectives in EO 13817 will require increasing domestic production of minerals to reduce the country’s reliance on mineral imports from all countries. The 1980 Act does not sanction preferentially obtaining minerals from foreign countries for those minerals that could be produced from U.S. mines.

## **VI. Conclusions**

Development of a critical minerals list could have far-reaching and unintended consequences if it is used to set a preference for which minerals can be developed, or developed on a priority basis, and which minerals should receive a lower priority. Market conditions – rather than a critical minerals list – should continue to drive mineral production. However, market conditions could be improved for mineral exploration, development, and production with a properly expanded list that includes host minerals and eliminating the unfavorable federal policies discussed in Section III

that currently impede mineral activities. These measures would help improve the nation's domestic mineral supply chain and reduce the nation's reliance on foreign minerals.

Pershing Gold very much appreciates this opportunity to provide comments on the draft critical minerals list and the OFR. We commend the Trump Administration for focusing on the importance of improving our supply of domestic minerals and reducing the nation's reliance on foreign minerals. Pershing Gold is especially grateful for this Administration's efforts to eliminate the regulatory barriers and permitting delays that stand in the way of the responsible and timely development of domestic mineral deposits.

Pershing Gold would very much appreciate an opportunity to continue to provide input to the USGS as it works to refine the critical minerals list by expanding it as recommended in this letter. We also would welcome the opportunity to offer more specific ideas about ways to improve the permitting process and strategies for attracting more investment in domestic mineral exploration and development.

Sincerely yours,



Stephen D. Alfors  
CEO, President, and Executive Chairman

Attachment: Exhibit I – 1995 and 2016 USGS Net Mineral Import Reliance Charts

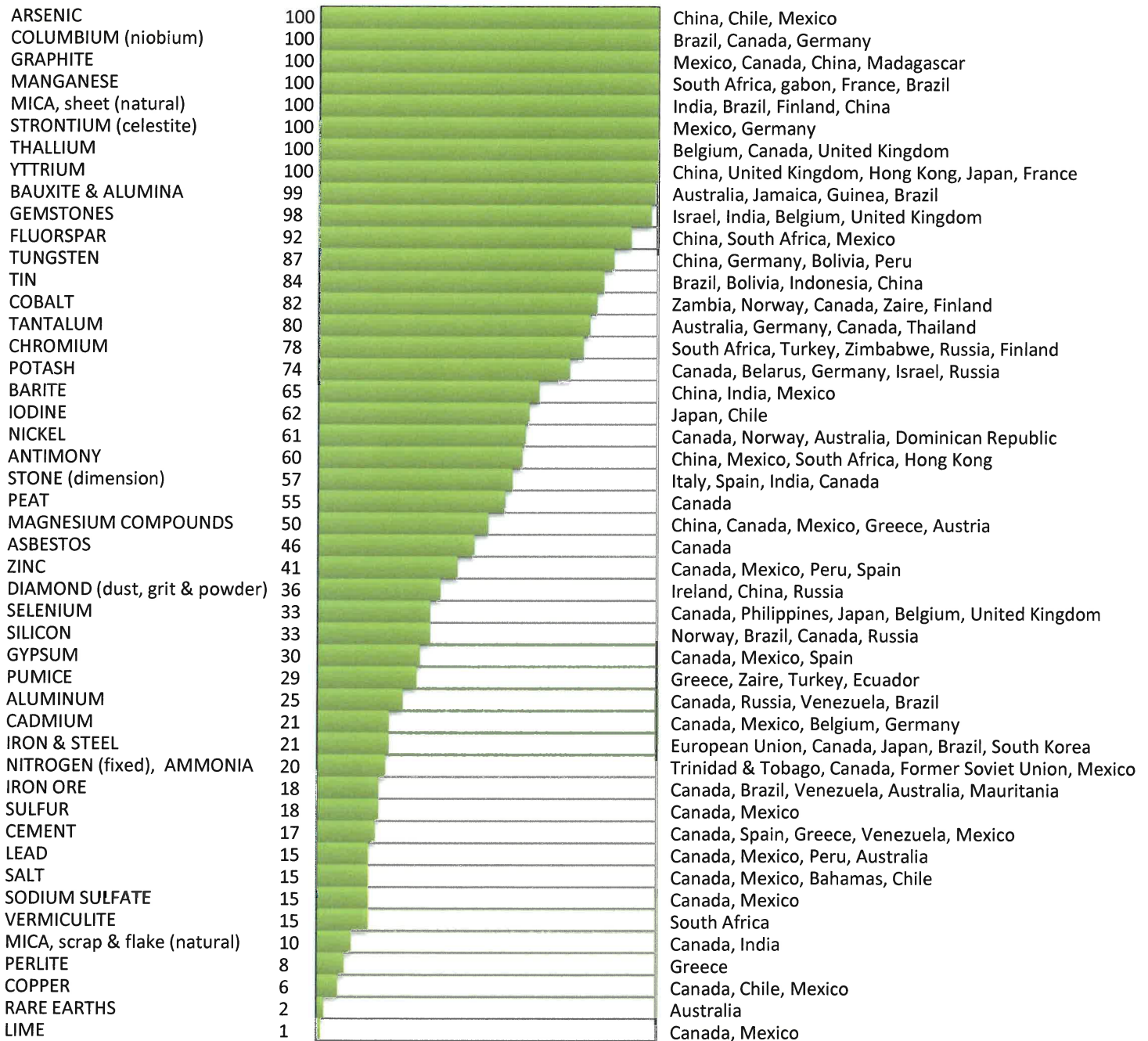
**EXHIBIT 1**

1995 and 2016 U.S. Net Import Reliance Charts

Sources: 1996 and 2017 USGS Mineral Commodity Surveys



# 1995 U.S. NET IMPORT RELIANCE FOR SELECTED NONFUEL MINERAL MATERIALS

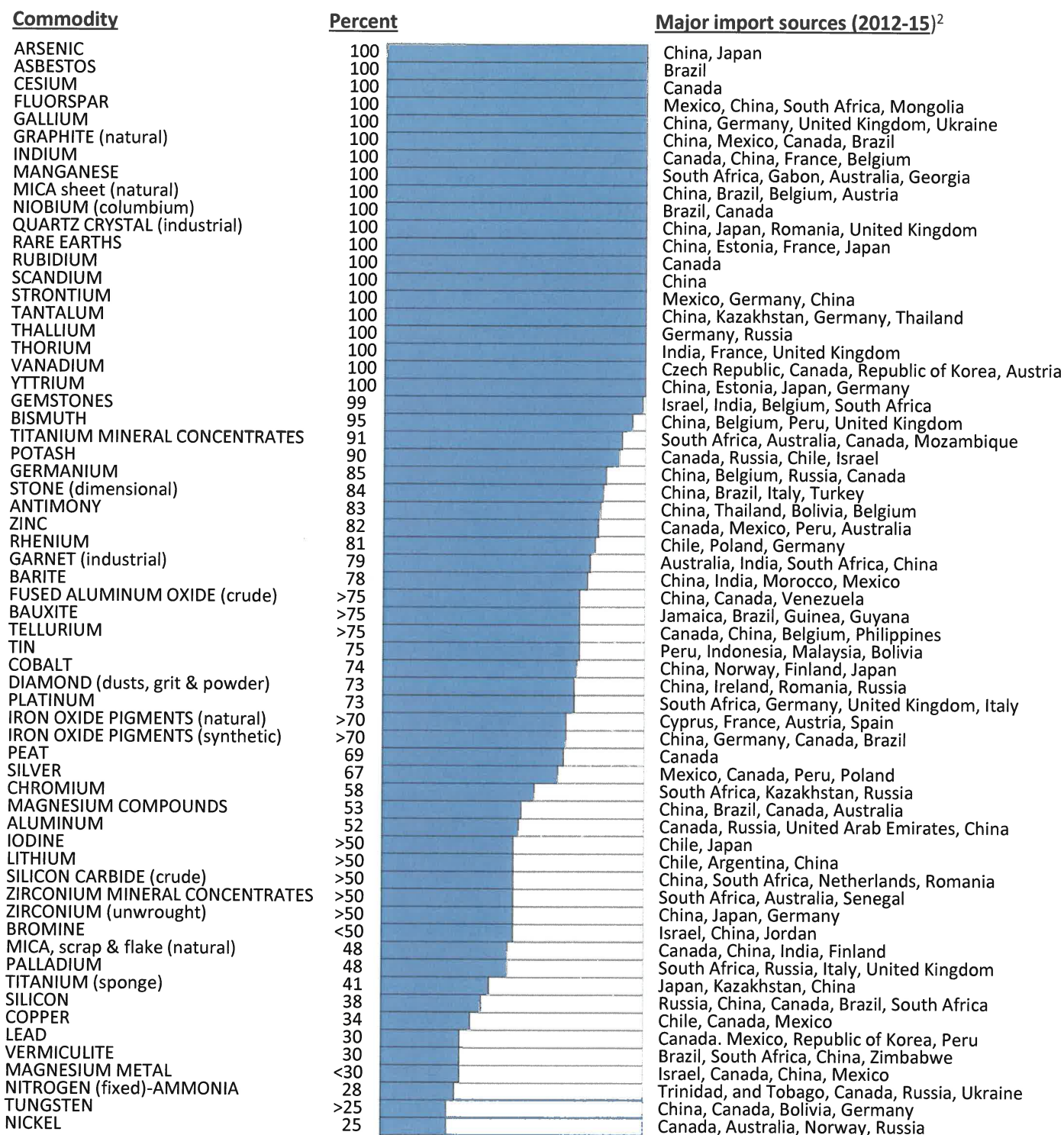


Additional commodities for which there is some import dependency include:

Bismuth	Mexico, Belgium, China, Peru
Gallium	France, Germany, Russia, United Kingdom, Hungary
Ilmenite	South Africa, Australia, Canada
Indium	Canada, France, Italy, Belgium, Russia
Iron & steel slag	Canada, Japan
Kyanite	South Africa, France
Mercury	Canada, Russia, Germany

Platinum	South Africa, United Kingdom, Belgium, Germany
Rhenium	Chile, Germany, United Kingdom, Russia, Kazakhstan
Rutile	Australia, Sierra Leone, South Africa
Silver	Mexico, Canada, Peru, Chile
Thorium	Australia
Titanium (sponge)	Russia, Japan, China
Vanadium	Russia, South Africa, Canada, Mexico
Zirconium	Australia, South Africa

# 2016 U.S. NET IMPORT RELIANCE<sup>1</sup>



<sup>1</sup>Not all mineral commodities covered in this publication are listed here. Those not shown include mineral commodities for which the United States is a net exporter (alumina; boron; clays; diatomite; helium; iron and steel scrap; iron ore; kyanite; molybdenum; sand and gravel, industrial; selenium; soda ash; titanium dioxide pigment; wollastonite; and zeolites) or less than 25% import reliant (abrasives, metallic, beryllium; cadmium; cement; diamond, industrial stones; feldspar; gypsum; iron and steel; iron and steel slag; lime; perlite; phosphate rock; pumice; sand and gravel, construction; salt; stone, crushed; sulfur and talc). For some mineral commodities (gold, hafnium, and mercury), not enough information is available to calculate the exact percentage of import reliance.

<sup>2</sup>In descending order of import share.

<sup>3</sup>Data include lanthanides





P.O. Box 10101  
Reno, NV 89510  
[info@wmc-usa.org](mailto:info@wmc-usa.org)

*sent via electronic mail*

March 19, 2018

Draft Critical Minerals List  
MS-1621  
U.S. Department of the Interior  
1849 C Street NW  
Washington, DC 20240  
<http://www.regulations.gov> DOI-2018-0001

**RE: Comments on the Draft Critical Minerals List Developed in Response to Executive Order No. 13817 and Secretarial Order No. 3359, USGS Open File Report 2018-1021, FR Vol. 83, No. 33, Page 7065-68**

## **I. Introduction**

The Women's Mining Coalition (WMC) very much appreciates this opportunity to submit these comments on the Department of the Interior's ("DOI's") draft critical minerals list and the U.S. Geological Survey ("USGS") Open File Report 2018-1021 ("the OFR"). This letter responds to DOI's request for comments (FR Vol. 83, No. 33, Page 7065-68) seeking input on the make-up of the draft list and offers a rationale for expanding this list.

We applaud President Trump and Secretary Zinke for their vision and leadership in recognizing the importance of developing domestic sources of the minerals that are essential to the nation's technology, manufacturing sector, the economy, and national defense. However, for the reasons discussed herein, WMC believes the draft critical minerals list was developed using a shortsighted methodology that does not consider all aspects of the critical mineral definition in President Trump's December 2017 Critical Minerals Executive Order ("EO") No. 13817. Consequently, the resulting list does not conform to President Trump's definition and does not comply with this EO because the list omits many important minerals, including but not limited to precious and base metals, that are used in the manufacturing and technology sectors and are the building blocks needed to support President Trump's infrastructure agenda.

President Trump's EO and Secretary Zinke's Secretarial Order ("SO") 3359 clearly establish this Administration's policy directives to increase the supply of domestic minerals. Unfortunately, in developing the draft critical minerals list and the OFR, the USGS has not completed the assignment it was given in EO 13817. Neither the draft list nor the OFR adequately respond to the Administration's mandate to reduce the nation's reliance on foreign minerals by increasing the exploration for and development of domestic minerals resources.

Additionally, WMC is concerned that the draft critical minerals list is not consistent with the requirements of the National Materials and Minerals Policy, Research and Development Act of 1980 (“1980 Act”). (30 U.S.C. §§ 1602 – 1605). The 1980 Act requires the President and the Secretary of the Interior to develop comprehensive programs that address the nation’s needs for reliable supplies of domestic minerals. As noted in SO 3359, this law provides the statutory authority for the critical minerals policies articulated in EO 13817 and SO 3359.

This Administration’s domestic mineral policies are a much-welcomed change from the past and are extremely important to WMC’s members working in the hardrock mining sector. We completely support President Trump’s and Secretary Zinke’s efforts to streamline the mineral exploration and development permitting process. We believe that measures to reduce permitting timelines, costs, risks, and uncertainties will stimulate domestic exploration and development and help reduce the nation’s reliance on foreign minerals.

### About WMC

WMC is a grassroots organization with members nationwide. Our members work in all sectors of the mining industry including hardrock, industrial minerals, and coal; energy generation and mining-related distribution, manufacturing, transportation, and service industries. We hold annual Washington, DC Fly-Ins to meet with members of Congress and their staff, and federal land management and regulatory agencies to discuss issues of importance to both the hardrock and coal mining sectors.

For many years, WMC has been concerned about the country’s steadily increasing reliance on foreign minerals. During the last several Fly-In’s we have presented the charts shown in Exhibit I from the 1996<sup>1</sup> and 2017<sup>2</sup> USGS’ Mineral Commodity Summaries. These charts document a shocking increase in the net mineral import reliance in the 21-year period from 1995 to 2016. Given our focus on this important issue, we fully support this Administration’s initiatives to take the necessary steps to reverse this alarming trend.

A number of WMC members are exploration geologists who have firsthand knowledge of the country’s mineral endowment. Many other WMC members are environmental professionals who help companies get the permits needed to explore for minerals and build mines. Based on this collective expertise, we know that our increasing reliance on imported minerals is not due to a lack of domestic mineral targets warranting exploration and potential development. Rather, WMC believes that the increase in the nation’s foreign mineral reliance is due in large part to unfavorable federal policies – regulatory barriers, permitting delays, land withdrawals, and land use restrictions that impede, and in some cases prohibit, mineral exploration and development. As described below, the USGS must consider these policy impediments in a revised OFR and in an expanded critical minerals list.

## **II. The Draft Critical Minerals List and the OFR Do Not Adequately Respond to EO 13817**

There are two fundamental problems with USGS’s work products. First, the draft critical minerals list does not comply with President Trump’s critical minerals definition. Secondly, the OFR is unresponsive to the directives in EO 13817 to reduce the country’s reliance on foreign minerals.

---

<sup>1</sup> U.S. Geological Survey, 1996, Mineral commodity summaries 1995: U.S. Geological Survey, <https://minerals.usgs.gov/minerals/pubs/mcs/1996/nir.gif>.

<sup>2</sup> U.S. Geological Survey, 2017, Mineral commodity summaries 2017: U.S. Geological Survey, 202 p., <https://doi.org/10.3133/70180197>

Section 2 of EO 13817 defines a critical mineral as follows:

- (i) a non-fuel mineral or mineral material essential to the economic and national security of the United States;
- (ii) the supply chain of which is vulnerable to disruption; and
- (iii) that serves an essential function in the manufacturing of a product, the absence of which would have significant consequences for our economy or our national security.

The USGS' methodology largely ignores this definition and fails to respond to the key directives in this EO. The resulting draft critical minerals list is thus inconsistent with the definition in EO 13817. The OFR and the draft list do not consider all of the minerals that are "essential to the economic and national security of the United States," as the first clause in President Trump's critical minerals definition requires.

The OFR fails to analyze the reasons the U.S. is so dependent on foreign minerals. WMC strongly recommends that DOI's response to the directives in EO 13817 requires a careful evaluation of how the unfavorable federal policies discussed in Sections III and IV restrict development of the domestic supply chain for critical minerals. The narrowly focused OFR does not properly consider the essential role that increasing domestic production of the nation's mineral resources would play in reducing the nation's reliance on foreign sources of minerals and reduce supply chain vulnerabilities. Consequently, the OFR does not satisfy the main purpose of EO 13817, which is to reduce the vulnerability of the critical mineral supply chain and the nation's reliance on foreign minerals.

The third element of the critical minerals definition in EO 13817 explicitly defines minerals essential to the manufacturing of products as critical minerals. The draft critical minerals list ignores this component of the critical minerals definition and omits many essential minerals like gold, silver, copper, lead, zinc, nickel, etc. that are essential to many manufacturing sectors, technology, and infrastructure. The USGS needs to expand the critical minerals list to include all minerals that are essential to the manufacturing sector in order to satisfy the third clause of President Trump's critical minerals definition.

Minerals deposits of gold, silver, copper, lead, zinc, nickel and others typically serve as the hosts for critical minerals that are produced as byproducts of the host minerals. As discussed in Section V, this host-byproduct relationship is another reason why the USGS must expand the critical minerals list to include host minerals.

Section 3 of EO 13817 establishes the following policy:

"It shall be the policy of the Federal Government to reduce the Nation's vulnerability to disruptions in the supply of critical minerals, which constitutes a strategic vulnerability for the security and prosperity of the United States. The United States will further this policy for the benefit of the American people and in a safe and environmentally responsible manner, by:

- (a) identifying new sources of critical minerals;
- (b) increasing activity at all levels of the supply chain, including exploration, mining, concentration, separation, alloying, recycling, and reprocessing critical minerals;

(c) ensuring that our miners and producers have electronic access to the most advanced topographic, geologic, and geophysical data within U.S. territory to the extent permitted by law and subject to appropriate limitations for purposes of privacy and security, including appropriate limitations to protect critical infrastructure data such as those related to national security areas; and

(d) streamlining leasing and permitting processes to expedite exploration, production, processing, reprocessing, recycling, and domestic refining of critical minerals.

To satisfy each element of the policy objectives in EO 13817 and President Trump’s critical minerals definition, USGS must revise and expand the critical minerals list to include all minerals essential to our economy and national security. Similarly, a revised OFR must discuss the factors currently constraining domestic mineral exploration, development, and production.

WMC would like to express its strong support for President Trump’s directive to develop better topographic, geologic, and geophysical data. We are confident that improvements in technology and better access to fundamental mapping and geophysical data will lead to new discoveries of domestic mineral deposits that can be developed into mines that produce minerals and reduce our reliance on mineral imports.

### **III The Protracted and Costly Federal Permitting Process Impedes Domestic Mineral Production and Increases the Nation’s Net Minerals Import Reliance**

Section 1 of EO 13817 states:

“Despite the presence of significant deposits of some of these [key] minerals across the United States, our miners and producers are currently limited by a lack of comprehensive, machine-readable data concerning topographical, geological, and geophysical surveys; permitting delays; and the potential for protracted litigation regarding permits that are issued. An increase in private-sector domestic exploration, production, recycling, and reprocessing of critical minerals, and support for efforts to identify more commonly available technological alternatives to these minerals, will reduce our dependence on imports, preserve our leadership in technological innovation, support job creation, improve our national security and balance of trade, and enhance the technological superiority and readiness of our Armed Forces, which are among the Nation’s most significant consumers of critical minerals.” (EO 13817 Findings at 1)

WMC members have direct experience with the time-consuming and costly permitting process for domestic mineral exploration and development – especially for mineral deposits on public lands. We believe that the arduous permitting process, which is fraught with risks and uncertainties, is one of the key reasons for the country’s reliance on foreign minerals. We thus welcome and support the permit streamlining directives in EO 13817 and SO 3359 to reduce permitting delays, costs, risks, and uncertainties. WMC believes that streamlining the permitting process would stimulate investment in the exploration and development of U.S. mineral deposits, capitalize upon our nation’s rich mineral endowment, and enable the country to become less reliant in the future on imports of foreign minerals.

The U.S. currently suffers from a bad reputation as having a very slow and risky permitting process. This reputation discourages mineral investment. For example, in a 2013 survey of favorable countries for mineral investment, the U.S. was tied with Papua New Guinea for last place as having the slowest permitting process – taking from seven to 10 years.<sup>3</sup> Investors’ impressions that the U.S. permitting process is risky significantly limits investment in the U.S. mineral exploration and mining sectors. Our reputation as a difficult place to secure permits for mineral exploration and development puts the U.S. mineral industry at a competitive disadvantage, leaving many worthwhile mineral projects underfunded – or not funded at all. The permit streamlining directives in EO 13817 and SO 3359 will help de-risk project development and stimulate investor interest in financing U.S. mineral exploration and development projects.

We note that the OFR does not attribute the country’s net import reliance on an inadequate domestic mineral endowment or a lack of viable domestic mineral deposits. This is a very significant point that cannot be overlooked in assessing the reasons for our import reliance. WMC believes that the challenges in attracting investment and financial support due in large measure to the country’s reputation as having a costly, time-consuming, and risky permitting process is one of the key reasons we import so many of the minerals we need.

The lack of adequate investment has significantly slowed down the rate of discovery of new domestic mineral deposits. Consequently, the number of new domestic mineral discoveries that can be developed into mines in the foreseeable future is small. This shortage of new discoveries has produced a steady decline in U.S. mineral production and a concurrent increase in our reliance on mineral imports.

WMC believes the OFR is incomplete and of limited application because it does not evaluate the steps the country needs to take to reduce our reliance on foreign minerals. As part of this analysis, the USGS should revise the OFR to identify policies that would promote timely exploration and development of the country’s mineral wealth in order to reduce our reliance on foreign minerals.

#### **IV. Land Use Policies Reduce Mineral Production and Increase the Country’s Net Import Reliance**

The USGS should also examine how federal land use policies that withdraw lands from mineral entry and impose problematic land use restrictions that impede mineral exploration and development are another reason for the country’s reliance on foreign minerals. For example, there are over 109 million acres of Congressionally-designated Wilderness Areas<sup>4</sup> which are off-limits to mineral activities. Although some WSAs have mineral potential, these federally protected areas will be forever unexplored and undeveloped unless Congress changes the status of these lands.

Another 12.6 million acres are Wilderness Study Areas (“WSAs”), which BLM manages “to preserve wilderness characteristics so as not to impair the suitability of such areas for designation by Congress as wilderness regardless of their suitability for wilderness designation in a manner to prevent impairment of wilderness characteristics.”<sup>5</sup> This non-impairment criterion, which applies to all WSAs – including those that BLM has recommended as non-suitable for wilderness – severely limits mineral activities.

---

<sup>3</sup> <http://www.akbizmag.com/Alaska-Business-Monthly/April-2013/Behre-Dolbear-Ranks-US-Last-in-Where-to-Invest-for-Mining/>

<sup>4</sup> <https://www.fs.fed.us/managing-land/wilderness>

<sup>5</sup> BLM Manual 6330 at 1-2.

In September 1999, BLM recommended to Congress that roughly 8.8 million WSA acres were “non-suitable” for wilderness designation.<sup>6</sup> Unfortunately nearly 20 years later, Congress has not decided whether to confer wilderness status on those WSAs that BLM identified as suitable for wilderness designation and to release the non-suitable WSAs back to a multiple use management status. Congressional action on the WSAs is relevant to the issue of the nation’s reliance on foreign minerals because some WSAs have mineral potential. Restoring these lands to multiple use where exploration and mining can take place could lead to discoveries of mineral deposits that could become sources of critical minerals.

The 2015 Greater Sage-Grouse management plans are an example of an administrative policy that imposes serious land use restrictions that severely impact mineral activities. The travel restrictions, seasonal constraints, buffer zones, and noise limits, are examples of the restrictions in these plans that are problematic for mineral exploration and development. The Sagebrush Focal Areas and the proposed withdrawal of roughly 10 million acres of lands from operation of the Mining Law was especially troubling. WMC is pleased that this proposed withdrawal is no longer under consideration and hopes that the ongoing effort to reevaluate these plans will lift or minimize some of the barriers to mineral activities and other multiple uses.

We raise the Sage-Grouse land management plans as an example of how administrative actions chill investment in U.S. mineral projects by sending the signal that the western U.S. is a difficult and unfriendly place for mineral exploration and development. In response to EO 13817, the DOI should evaluate how policies that withdraw lands from mineral entry, limit access to public lands, or impose land use restrictions that make mineral exploration and development difficult if not impossible are inconsistent with the Trump Administration’s objectives to increase domestic mineral production and reduce the country’s net import reliance.

## **V. The Critical Minerals List Must be Expanded to Include Host Minerals**

The OFR’s distinction between critical minerals and their mineral hosts is not relevant to EO 13817. Although WMC recognizes that this distinction is useful in a geologic context, it is not consistent with the definition of critical minerals in EO 13817 and should not be used in USGS’ response to EO 13817.

The OFR explicitly states that many of the minerals on the draft critical minerals lists are not typically produced on their own; they are byproducts from the production of other “host” minerals like gold, copper, nickel, zinc, and others:

“Many commodities are not mined directly, but are instead recovered during the processing, smelting, or refining of a host mineral and are, therefore, deemed “byproducts.” ... Byproducts are almost never independently economically viable to mine, thus relying on the economics of the material being mined, which may then yield an economically recoverable concentration of the byproduct...” (OFR at 9-10).

Despite USGS’ admission that byproduct critical mineral production is inseparable from producing the host minerals, the OFR curiously omits the host minerals from the draft critical minerals list. Consequently, the draft list is incomplete and does not fulfill the directives in EO 13817. The following statement in the OFR makes it obvious that host minerals are critically important and should not be excluded from the critical minerals list:

---

<sup>6</sup> [https://www.blm.gov/public\\_land\\_statistics/pls99/99pl5-9.pdf](https://www.blm.gov/public_land_statistics/pls99/99pl5-9.pdf)

“...strategies to increase the domestic supply of these [critical mineral byproduct] commodities also should consider the mining and processing of the host materials because enhanced recovery of byproducts alone may be insufficient to meet U.S. consumption” (OFR at 10)

Because host minerals are a significant – and in some cases the only – source of many of the critical minerals already on the draft list, the USGS must add the host minerals to the critical minerals list in order to respond to EO13817.

Another reason why EO 13817 requires the USGS to add host minerals to the critical minerals list is that host minerals are essential to the manufacturing of products critical to our economy and national security. The third clause of President Trump’s critical minerals definition explicitly sweeps in all minerals that “serve[s] an essential function in the manufacturing of a product, the absence of which would have significant consequences for our economy or our national security.”

WMC members who are geologists are greatly troubled by the mischaracterization of host mineral deposits like copper, gold, and silver as “ubiquitous” (OFR at 8). USGS appears to imply that deposits of copper, gold, silver and other important minerals currently excluded from the critical minerals list are not critical because they are so commonplace (i.e., “ubiquitous”). Deposits of gold, silver, copper, zinc, nickel, etc. are geologic rarities that are difficult and expensive to discover and develop. We hope this misstatement is simply an editing error that will be corrected in a revised OFR. However, WMC is concerned that the omission of host minerals from the critical minerals list is premised on the geologically absurd notion that host minerals are everywhere and easy to find.

## **VI. The Critical Minerals List and the OFR Do Not Comply with the National Materials and Minerals Policy, Research and Development Act of 1980**

In the National Materials and Minerals Policy, Research and Development Act of 1980 (“the 1980 Act”) at 30 U.S.C. §§ 1602 – 1605 Congress found the following:

“a need for a coordinated program to ensure the availability of materials critical for national economic well-being, defense, and industrial production.” The definitions and directives in EO 13817 and SO 3359<sup>7</sup> respond to the findings in the 1980 Act and implement its mandates.

“the United States lacks a coherent national materials policy and a coordinated program to assure the availability of materials critical for national economic well-being, national defense, and industrial production, including interstate commerce and foreign trade.” (30 U.S.C. § 1601(7).

“...it is the continuing policy of the United States to promote an adequate and stable supply of materials necessary to maintain national security, economic well-being and industrial production with appropriate attention to a long-term balance between resource production, energy use, a healthy environment, natural resource conservation, and social needs.” (30 U.S.C. § 1602)

---

<sup>7</sup> Secretarial Order 3359 cites the 1980 Act as statutory authority for the order.

WMC very much appreciates President Trump's and Secretary Zinke's efforts to develop policies to implement the 1980 Act, which previous administrations ignored for over three decades. This administration's policies to respond to the directives in the 1980 Act by could help stimulate domestic mineral exploration and mine development because it sends a clarion signal that once again, the U.S. is open for responsible mineral exploration and development.

EO 13817 and SO 3359 respond to the following directives in the 1980 Act:

- Identify materials needs and assist in the pursuit of measures that would assure the availability of materials critical to commerce, the economy, and national security. (30 U.S.C. § 1602(1));
- Direct that the responsible departments and agencies identify, assist, and make recommendations for carrying out appropriate policies and programs to ensure adequate, stable, and economical materials supplies essential to national security, economic well-being, and industrial production; (30 U.S.C. § 1603(1));
- Support basic and applied research and development to provide for...advanced science and technology for the exploration, discovery, and recovery of nonfuel materials, (30 U.S.C. § 1603(2)(A))
- Assess Federal policies which adversely or positively affect all stages for the materials cycle, from exploration to final product recycling and disposal (30 U.S.C. § 1603(8));
- Promote and encourage private enterprise in the development of economically sound and stable domestic materials industries (30 U.S.C. § 1602(6)); and
- [Make] recommendations for the collection, analysis, and dissemination of information concerning domestic and international long-range materials demand, supply and needs. (30 U.S.C. § 1604(2)).

The directives in EO 13817 will implement the key elements of the 1980 Act and take significant steps to reduce the country's reliance on mineral imports.

It is important to note that both the 1980 Act and EO 13817 seek to reduce the nation's reliance on imported minerals from all countries – not just countries that are or may become hostile to the U.S. The OFR inappropriately excludes imports from friendly countries like Canada from the scope of the problem, stating: "...high net import reliance should not be construed to always pose a potential supply risk. For example, three of the commodities deemed critical or near critical are primarily imported from Canada, a nation that is integrated with the United States defense industrial base." (OFR at 9). This position is inconsistent with the directives in both the 1980 Act and EO 13817 to increase domestic production of minerals in order to reduce the country's reliance on mineral imports from all countries. Neither the 1980 Act nor EO 13817 include special dispensation for mineral imports from our allies – especially for those minerals with which the U.S. is endowed and that could be produced from U.S. mines.

## **VII. Conclusions**

WMC very much appreciates this opportunity to provide comments on the draft critical minerals list and the OFR. We would like to thank the Trump Administration for focusing on the importance of improving



our supply of domestic minerals and reducing the nation's reliance on foreign minerals. WMC believes this Administration's efforts to eliminate the regulatory barriers and permitting delays that stand in the way of the responsible and timely development of domestic mineral deposits will help stimulate investment in America's mineral sector.

Given WMC's longstanding concerns about the country's increasing reliance on imported minerals, we would very much appreciate the opportunity to discuss critical minerals in more detail with USGS and DOI officials during our April 23-26, 2018 Washington, DC Fly-In. We will be contacting you soon to try to schedule meetings on this important matter.

Respectfully submitted:



Barbara Coppola  
WMC President  
[Barbara.Coppola@duke-energy.com](mailto:Barbara.Coppola@duke-energy.com)



Debra W. Struhsacker  
WMC Co-Founder and Director  
(775) 826-3800  
[dstruhsacker@sbcglobal.net](mailto:dstruhsacker@sbcglobal.net)

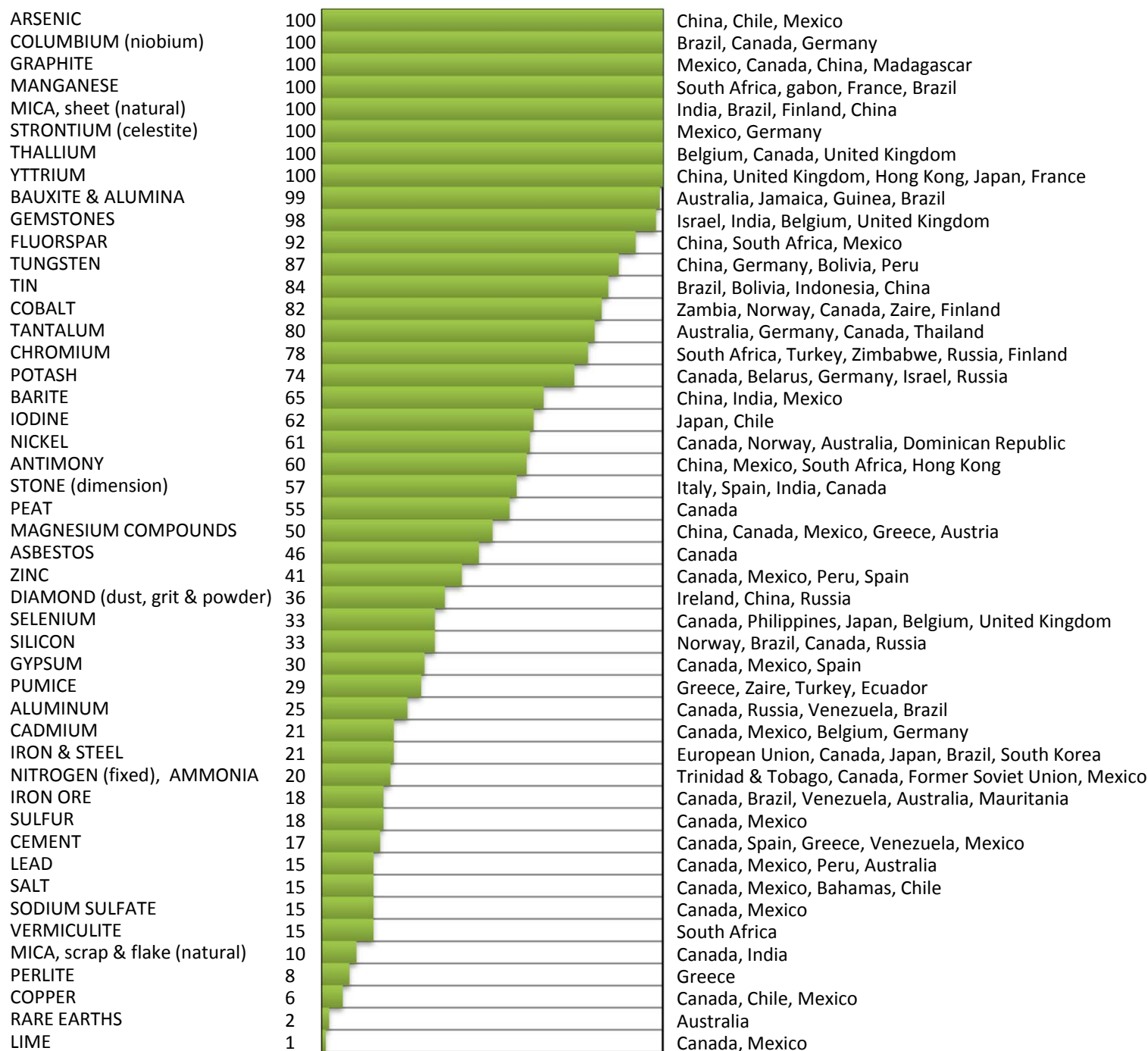
Attachment: Exhibit I – 1995 and 2016 USGS Net Mineral Import Reliance Charts

# **EXHIBIT 1**

1995 and 2016 U.S. Net Import Reliance Charts

Sources: 1996 and 2017 USGS Mineral Commodity Surveys

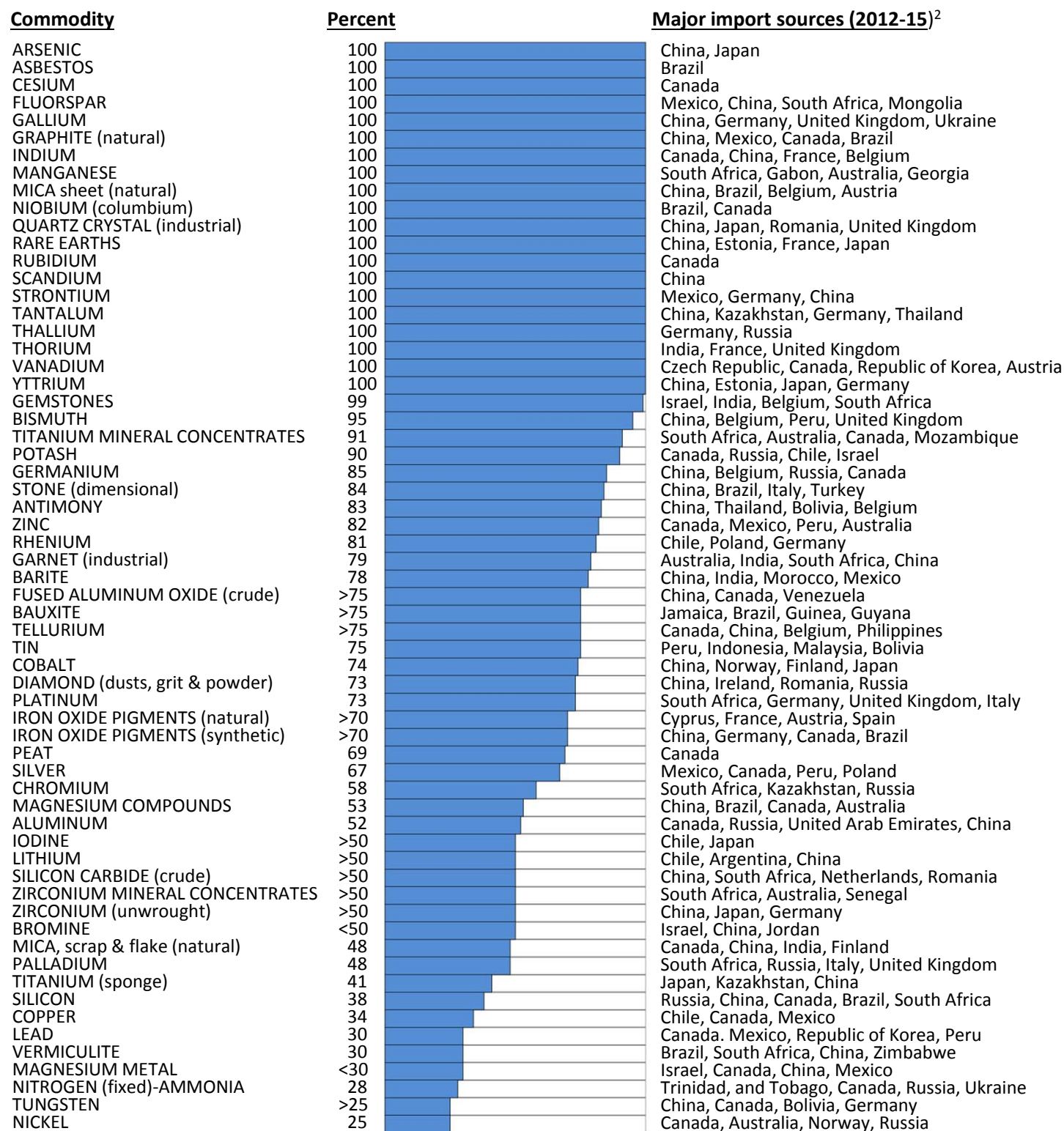
# 1995 U.S. NET IMPORT RELIANCE FOR SELECTED NONFUEL MINERAL MATERIALS



Additional commodities for which there is some import dependency include:

Bismuth	Mexico, Belgium, China, Peru	Platinum	South Africa, United Kingdom, Belgium, Germany
Gallium	France, Germany, Russia, United Kingdom, Hungary	Rhenium	Chile, Germany, United Kingdom, Russia, Kazakhstan
Ilmenite	South Africa, Australia, Canada	Rutile	Australia, Sierra Leone, South Africa
Indium	Canada, France, Italy, Belgium, Russia	Silver	Mexico, Canada, Peru, Chile
Iron & steel slag	Canada, Japan	Thorium	Australia
Kyanite	South Africa, France	Titanium (sponge)	Russia, Japan, China
Mercury	Canada, Russia, Germany	Vanadium	Russia, South Africa, Canada, Mexico
		Zirconium	Australia, South Africa

# 2016 U.S. NET IMPORT RELIANCE<sup>1</sup>



<sup>1</sup>Not all mineral commodities covered in this publication are listed here. Those not shown include mineral commodities for which the United States is a net exporter (alumina; boron; clays; diatomite; helium; iron and steel scrap; iron ore; kyanite; molybdenum; sand and gravel, industrial; selenium; soda ash; titanium dioxide pigment; wollastonite; and zeolites) or less than 25% import reliant (abrasives, metallic, beryllium; cadmium; cement; diamond, industrial stones; feldspar; gypsum; iron and steel; iron and steel slag; lime; perlite; phosphate rock; pumice; sand and gravel, construction; salt; stone, crushed; sulfur and talc). For some mineral commodities (gold, hafnium, and mercury), not enough information is available to calculate the exact percentage of import reliance.

<sup>2</sup>In descending order of import share.

<sup>3</sup>Data include lanthanides

# WESTERN EXPLORATION LLC

March 19, 2018

**Via U.S. Mail, Certified, RRR**

Draft Critical Minerals List  
MS-1621  
The Honorable Ryan Zinke  
Secretary  
Department of the Interior  
1849 C Street NW  
Washington, DC 20240

And online to:

<http://www.regulations.gov>

**Re: Comments regarding of the Preliminary USGS Critical Minerals List  
83 Fed. Reg. 7065 (Feb. 16, 2018)**

Dear Secretary Zinke:

Western Exploration LLC (“WEX”) appreciates the opportunity to submit the following comments to the Department of the Interior (“DOI”) regarding the above-referenced preliminary list of minerals considered “critical” as published by the U.S. Geological Survey (“USGS”) on February 16, 2018 (“Draft List”).

WEX believes that the Draft List should be compiled consistent with the Congressional intent underlying the National Materials and Minerals Policy, Research and Development Act of 1980 (the “1980 Act”), and, to do so, must include gold, silver, and other common minerals on any forthcoming list of minerals designated as being critical to U.S. national security and the economy. The 1980 Act directed the President to prepare a comprehensive plan to, among other things, implement the policy to promote an adequate and stable supply of minerals and materials necessary to maintain national security, economic well-being, and industrial production. One of the primary expectations of the 1980 Act was to help reduce U.S. dependence on foreign sources of critical minerals and materials which includes gold and silver and other common minerals.

## **I. Background**

### **a. WEX**

WEX is a privately-held company that acquired the Doby George and Wood Gulch projects located in northern Elko County, Nevada in 1997. Since 1998, WEX has spent approximately

\$52,700,000 on exploration efforts in the Doby George and Wood Gulch Project areas. Field exploration expenditures at Doby George and Wood Gulch (the “WEX Projects”) during a typical field season generally will range, at a minimum of between \$7,000,000 – 10,000,000.

The WEX projects are among the most promising gold mines in our country and the world. This was recently confirmed in the USGS Mineral Potential report, which gave the WEX Projects the highest rating for mineral potential. The BLM has noted that two “large, well-defined gold resources have been developed through exploration in the past 20 years in Elko County, Nevada” – referencing the two WEX Projects. The BLM has also recognized that the local economy in Elko is primarily based on extensive locatable mineral operations.

The WEX Projects include the following:

- The Doby George Project is an advanced mineral exploration project that covers approximately 2,392 acres (114 claims) in the northern Independence Range on US Forest Service (“USFS”) land in the Aura Mining District.
- The Aura Project is a mineral exploration project that covers approximately 5,015 acres (239 claims) in the northern Independence Range on USFS land in the Aura Mining District.
- The Wood Gulch Project is an advanced mineral exploration project that covers approximately 7,470 acres (356 claims) in the northern Independence Range on USFS land near the old Wood Gulch Mine.
- The Sonoma Range projects, generally south of Winnemucca, include Section 23, Spanish Basin, Barrel Springs, and DCT.

The economic footprint of WEX’s projects is much broader than the immediate vicinity and county in which they are located. Specifically, indirect expenditures in Mountain City, Elko, Winnemucca, and Reno continue to benefit the local economies as services and products are purchased from a wide variety of vendors, consultants, and contractors (*e.g.*, at least nine businesses providing lodging, food, and community amenities in Mountain City and Elko; eight businesses providing drilling and field supply services; nine businesses providing contractor and subcontractor labor; and 18 consultants providing employees and site-specific services). Moreover, exploration conducted by WEX of the Wood Gulch deposit and surrounding area lead to the discovery in 2013 of another, larger gold deposit approximately one mile east of the reclaimed Wood Gulch mine. This new deposit will be an economically significant discovery.

Given its demonstrated interest, WEX is concerned about USGS’s failure to recognize gold, silver, and other common minerals as “critical” in its Draft List. WEX outlines its concerns in these comments.

## **II. The DOI's Draft List of "Critical Minerals" Must Include Silver, Gold, and Other Common Minerals**

WEX submits that the preliminary Draft List, which USGS developed in response to the December 20, 2017, Executive Order ("EO") 13817 entitled "A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals," should be viewed as a "start" rather than a comprehensive list of critical minerals and should be compiled in accordance with the objectives of the 1980 Act. Namely, the Draft List should be revised to encompass gold and silver, along with other minerals widely regarded as "critical" to national security and the U.S. economy in other key documents, and which meet the applicable definition of "critical minerals."

### **a. Gold, Silver, and Other Common Minerals Meet the Definition of "Critical Minerals" Contained in EO 13817 and SO 3359**

As a highly industrialized nation, materials development has been a central factor in the evolution of American society. Fuels, electricity, steel, aluminum, copper, gold, silver, cement, plastics, and fertilizers – all of mineral origin – are the lifeblood of U.S. industry. The 1980 Act recognized the importance of this and required creation of a plan to "promote an adequate and stable supply of materials necessary to maintain national security, economic well-being and industrial production . . . ." The Draft List identifying 35 minerals as "critical" is a narrowly-focused snapshot of a select group of minerals that are a subset of a larger universe of critical and essential minerals, where the language of EO 13817 suggests that it intends to encompass the latter.

EO 13817 defines a "Critical Mineral" as that identified to be:

(i) a non-fuel mineral or mineral material essential to the economic and national security of the United States, (ii) the supply chain of which is vulnerable to disruption, and (iii) that serves an essential function in the manufacturing of a product, the absence of which would have significant consequences or our economy or our national security.

As the Draft List identifies, "[d]isruptions in supply chains may arise for any number of reasons, including natural disasters, labor strife, trade disputes, resource nationalism, conflict, and so on."

On December 21, 2017, Sec. Zinke issued Secretarial Order ("SO") No. 3359 on critical mineral independence and security. This order implements EO 13817. SO 3359 cites a number of statutory authorities including the 1980 Act, the Mining Law of 1872, and the Mining and Minerals Policy Act of 1970. Both EO 13817 and SO 3359 emphasize economic prosperity/security and minerals essential to the manufacturing of a product necessary for economic or national security.

The 1980 Act that serves as one of the underlying fundamental bases for EO 13817 and SO 3359 requires the Administration to consider a much broader list of minerals than the 23 minerals evaluated in the 2017 USGS report on critical minerals and the 35 minerals in the Draft

List. The scope of the USGS report and the Draft List are improperly narrow compared to the broad mandates in the 1980 Act cited as authority for SO 3359, excluding several minerals that are both vital to the Nation's security and economic prosperity, and essential to product manufacturing.

Examples of minerals that meet the EO 13817 definition of critical mineral and comply with the mandates of EO 13817 and SO 3359 are gold, silver, copper, nickel, zinc, molybdenum, and lead. Pursuant to the first factor in EO 13817's definition, gold is a non-fuel mineral which is undeniably essential to the economic and national security of the United States, and has long been universally recognized as such. In fact, the USGS named gold as the highest "principal contributor" to the total value of metal mine production in 2017, making up 38% of the \$26.3 billion value of U.S. metal mine production in 2017.<sup>1</sup> Second, the gold supply chain is vulnerable to disruption.<sup>2</sup> Third, gold serves an essential function in the manufacturing of many products, the absence of which would have significant consequences on the U.S. economy or security. Gold is an essential component of current and new technologies such as computers, GPS and satellite technologies, medical equipment, and space travel. It is highly-regarded as an industrial catalyst, critical to both U.S. currency and economic stability. Gold clearly meets the definition of a "critical mineral" pursuant to EO 13817, and is highly critical to the Nevada economy in particular.<sup>3</sup>

Silver also meets the definition of a "critical mineral" and should be included in the Draft List. Silver is a non-fuel mineral which is essential to the economic and national security of the United States,<sup>4</sup> and Nevada in particular.<sup>5</sup> Second, the supply chain of silver is vulnerable to

---

<sup>1</sup> USGS, *Mineral Commodity Summaries 2018*, at 7, available at <<https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>>.

<sup>2</sup> The media has recognized increasing price volatility in commodities including gold in recent years, explaining that this increasing vulnerability in supply chains is due to increasing complexity of the same. See, e.g., *Identifying Vulnerability is Step One to Mitigating Supply Chain Risk*, Susan Avery, My Purchasing Center, available at <<http://www.mypurchasingcenter.com/logistics/articles/identifying-vulnerability-step-one-mitigating-supply-chain-risk/>>.

<sup>3</sup> The USGS named gold a "principal non-fuel mineral" in Nevada in 2017, ranked first in order of value. USGS, *Mineral Commodity Summaries 2018*, at 11, available at <<https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>>.

<sup>4</sup> "Silver has so many industrial uses in which it is indispensable or at least difficult to substitute for, that it is essential to the U.S. economy and defense." USGS, *Mineral Commodity Profiles 2014 - Silver*, at 35, available at <<https://pubs.usgs.gov/of/2004/1251/2004-1251.pdf>>. "In 2017, U.S. mines produced approximately 1,020 tons of silver with an estimated value of \$564 million." USGS, *Mineral Commodity Summaries 2018*, at 150, available at <<https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>>.

<sup>5</sup> The USGS named silver a "principal non-fuel mineral" in Nevada in 2017, ranked fifth in order of value. USGS, *Mineral Commodity Summaries 2018*, at 11, available at <<https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>>.



disruption.<sup>6</sup> Third, silver serves many essential functions,<sup>7</sup> including the manufacture of electrical and electronic products as a gold substitute.<sup>8</sup>

Gold and silver also are critical host minerals to a number of other critical minerals that would not be economically developed but for the presence of the gold and silver. A number of the critical minerals on the Draft List do not occur in economically viable mineral deposits. These critical minerals require a host or gateway mineral as the economic driver for exploration development and mining. Without the host or gateway mineral, certain listed minerals will not be produced. For example, copper is the host or gateway to at least four minerals on the Draft List: cobalt, rhenium, tellurium, and potentially the rare earths. Gold is the gateway or host mineral to antimony and arsenic. Zinc is a host or gateway mineral to indium, gallium and germanium. Nickel is host or gateway to cobalt and the platinum group metals. Lead has been found to be the gateway to antimony, bismuth and tellurium.

While WEX's comments focus on gold and silver, we note that other common minerals excluded from the Draft List meet the definition of "critical minerals" pursuant to EO 13817, and should therefore be included in the Draft List. These include "host" or "gateway" minerals, which are critical as the economic driver for exploration development and mining and are greatly important to the economic and national security of the U.S. While in no way comprehensive, the additional critical minerals include: copper,<sup>9</sup> zinc,<sup>10</sup> nickel,<sup>11</sup> and lead.<sup>12</sup> As major economic drivers, silver, gold, copper, lead, zinc, and other minerals are indispensable to our infrastructure

---

<sup>6</sup> Namely, silver is subject to the same commodity price volatility as that of gold.

<sup>7</sup> For example:

In 2017, the estimated domestic uses for silver were electrical and electronics, 36%; coins and medals, 22%; jewelry and silverware, 7%; photography, 5%; and other, 30%. Other applications for silver include use in antimicrobial bandages, clothing, pharmaceuticals, and plastics; batteries; bearings; brazing and soldering; catalytic converters in automobiles; electroplating; inks; mirrors; photovoltaic solar cells; water purification; and wood treatment.

USGS, *Mineral Commodity Summaries 2018*, at 150, available at

<<https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>>. Silver also serves important functions in medicine and as a catalyst for a variety of oxidation, reduction, and polymerization reactions used in large-scale industrial processes. USGS, *Mineral Commodity Profiles 2014 - Silver*, at 23, available at <<https://pubs.usgs.gov/of/2004/1251/2004-1251.pdf>>.

<sup>8</sup> According to the USGS, "[b]ase metals clad with gold alloys are widely used in electrical and electronic products, and in jewelry to economize on gold; many of these products are continually redesigned to maintain high-utility standards with lower gold content. Generally, palladium, platinum, and silver may substitute for gold."

<sup>9</sup> Copper is necessary in the production and delivery of electrical energy, providing clean water and rebuilding America's infrastructure. It also is critical to numerous defense technologies and weapons' platforms. The U.S. currently imports 34% of its copper requirements despite world class deposits.

<sup>10</sup> Zinc is essential to galvanizing other metals like iron to prevent rust in infrastructure like bridges, railroads, buildings and roads. Zinc is essential to making brass and bronze which are critical infrastructure materials. Zinc also is essential to numerous defense technologies and weapons' platforms. The U.S. is 82% import reliant on zinc.

<sup>11</sup> Nickel is essential to making stainless steel. It also is critical to numerous defense technologies and weapons' platforms. The U.S. is 25% import reliant for nickel despite world class undeveloped resources.

<sup>12</sup> Lead is critical and essential for lead acid batteries as well as numerous defense technologies and weapons' platforms. The U.S. is 30% import reliant on lead.

and are essential components of consumer products, military and defense equipment, numerous manufacturing sectors, medical applications and other uses. The availability of minerals – especially minerals with widespread uses in infrastructure, manufacturing, and consumer products – is an issue of national importance because shortages of these minerals would create serious economic disruptions that would have a ripple effect throughout our economy. WEX requests that the DOI consider the criticality of these minerals in reconsidering the USGS Draft List.

**b. The Draft List is Improperly Narrow in Reliance on Inapplicable Definitions of “Critical Minerals”**

WEX submits that the Draft List appears to rely on the incorrect definition of “critical minerals,” yielding an underinclusive list of only 35 minerals. WEX urges that the DOI apply the appropriate definition of the term.

According to the Federal Register Notice accompanying the Draft List, the primary tool used to develop the Draft List was the critical mineral screening methodology developed by the National Science and Technology Council Subcommittee on Critical and Strategic Mineral Supply Chains (“CSMSC”) in 2016 and updated in 2018. While other tools were utilized, the screening criteria tool in the CSMSC applied a different definition than that which is set forth in both EO 13817 and SO 3359.<sup>13</sup> It appears that due to this reliance on the CSMSC definition, many minerals that meet the EO and SO definition of a critical mineral were left off the list.

One of the tools used to compile the Draft List is the annual USGS Import Reliance Chart for nonfuel minerals. Both EO 13817 and SO 3359 focus on the importance of the domestic minerals supply chain and that dependence on foreign sources of minerals creates strategic vulnerability to the U.S. military and industry. There are a number of minerals included on the USGS Net Import Reliance Chart that meet EO 13817’s definition of critical minerals but are not in the Draft List of critical minerals, despite the fact that the excluded minerals are subject to supply disruption. Given the severity of the import dependence problem, coupled with the likelihood that the problem will grow to include other minerals as technological demand increases, as geopolitical upsets occur in the future in risky producing nations, and if the myriad permitting problems continue unabated, the list of imported minerals subject to supply disruption will only grow.

Moreover, WEX notes that the Draft List is clearly much narrower than that which other Federal government organizations have evaluated. For example, the Defense Logistics Agency

---

<sup>13</sup> See *Assessment of Critical Minerals: Screening Methodology and Initial Application*, March 2016, available at <<https://www.whitehouse.gov/sites/whitehouse.gov/files/images/CSMSC%20Assessment%20of%20Critical%20Minerals%20Report%202016-03-16%20FINAL.pdf>>; see also *Assessment of Critical Minerals: Updated Application of Screening Methodology*, February 2018, available at <<https://www.whitehouse.gov/sites/whitehouse.gov/files/images/CSMSC%20Assessment%20of%20Critical%20Minerals%20Report%202016-03-16%20FINAL.pdf>>

looks at more than 170 elements/minerals/materials in its annual evaluation of critical elements/minerals/materials for defense purposes.<sup>14</sup>

WEX urges that the DOI utilize the correct definition, consistent with the 1980 Act – that which is included in EO 13817 and SO 3359 – to include all minerals which meet that definition, including gold and silver as outlined herein.

**c. The Draft List Must be Revised to Conform to the Policy Objectives of the 1980 Act and EO 13817**

The narrow scope of the Draft List is inconsistent with the expressed policy aim in the 1980 Act and EO 13817, and must be revised accordingly.

The 1980 Act set forth a clear policy to promote an adequate and stable supply of minerals and materials necessary to maintain the national security, economic well-being, and industrial production. In furtherance of those statutory objectives, EO 13817 states that it “shall be the policy of the Federal Government to reduce the Nation’s vulnerability to disruptions in the supply of critical minerals, which constitutes a strategic vulnerability for the security and prosperity of the United States.” Consistent with the 1980 Act, EO 13817 further expresses concern about heavy U.S. reliance on imports of certain mineral commodities that creates a strategic vulnerability for the economy and military to supply chain disruptions including adverse foreign government actions, natural disasters, and other events. In an attempt to address these concerns, EO 13817 focuses on the need to increase “private-sector domestic exploration, production, recycling, and reprocessing of critical minerals . . . [to] reduce our dependence on imports, preserve our leadership in technological innovation, support job creation, improve our national security and balance of trade, and enhance the technological superiority and readiness of our Armed Forces . . .”

Consistent with the concerns that resulted in Congress adopting the 1980 Act and concerns identified in EO 13817, the 2018 USGS *Mineral Commodity Summaries* confirms that the U.S. is currently greater than 50 percent reliant upon foreign countries for 30 different metals and minerals – and 100 percent for an additional 21 minerals.<sup>15</sup> Similarly, in a recent report entitled “Critical Mineral Resources of the United States,”<sup>16</sup> USGS emphasized the concern about secure and reliable sources of minerals is real and will worsen if not addressed:

The global demand for mineral commodities is at an all-time high and is expected to continue to increase, and the development of new technologies and products has led to the use of a greater number of minerals commodities in increasing

---

<sup>14</sup> See, e.g., [http://www.dla.mil/Portals/104/Documents/StrategicMaterials/Reports/Operations%20Report/FY16%20Operations%20Report\\_FINAL\\_Website%20Version.pdf](http://www.dla.mil/Portals/104/Documents/StrategicMaterials/Reports/Operations%20Report/FY16%20Operations%20Report_FINAL_Website%20Version.pdf).

<sup>15</sup> USGS, *Mineral Commodity Summaries 2018*, at 7, available at <https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>.

<sup>16</sup> Available at <https://pubs.er.usgs.gov/publication/pp1802>.

quantities to the point that, today, essentially all naturally occurring elements have several significant industrial uses.

This well-documented growing mineral dependency includes gold, silver, and other common minerals. For example, the USGS has recognized growing international markets for gold, and has concluded that “the gold resources in the United States, however, are only a small portion of global gold resources.”<sup>17</sup> Further, while silver mine production decreased nationally and internationally in 2017, countries from which we import silver like Mexico, Canada, Peru, and Poland exceeded the U.S. in terms of production and reserves in recent years.<sup>18</sup> The USGS has predicted that consumption of silver generally is expected to grow, with U.S. consumption projected to grow faster than world consumption.<sup>19</sup>

Further, WEX notes that the Draft List is a snapshot in time. Critical minerals change with economics and circumstances and require an ongoing review. The 1980 Act relied upon in SO 3359 includes very broad directives, charging the executive branch with:

[I]dentify[ing] materials needs and assist in the pursuit measures that would assure the availability of materials critical to commerce, the economy, and national security; . . . provid[ing] for . . . advanced science and technology for the exploration, discovery, and recovery of nonfuel minerals; . . . assess[ing] Federal policies which adversely or positively affect all stages of the material cycle, from exploration to final product recycling and disposal . . .”

The 1980 Act further requires “continuing private sector consultation in Federal materials programs,” which recognizes that critical minerals change with circumstances.

WEX shares the concern expressed in EO 13817 and the corresponding policy objectives. WEX also recognizes the USGS’s Draft List as an important starting point in the direction of achieving those policy objectives. Yet, to adequately fulfill the policy goals intrinsically tied to U.S. national security, infrastructure, and manufacturing needs, the Draft List must be expanded to include gold, silver, and other common minerals that have been improperly excluded. WEX submits that the suggested Draft List expansion also furthers the policy goals as outlined in the 1980 Act by assuring the availability of materials critical to commerce, the economy, and national security.

### **III. Permitting Reforms Must Apply Across-the-Board to All Mineral Commodities**

A critical issue that is interfering with mineral exploration and development in the U.S. is permitting delays. Therefore, WEX urges the DOI to address permitting delays for mineral and

---

<sup>17</sup> USGS, *Mineral Commodity Summaries 2018*, at 71, available at <<https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>>.

<sup>18</sup> USGS, *Mineral Commodity Summaries 2018*, at 151, available at <<https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>>.

<sup>19</sup> USGS, *Mineral Commodity Profiles 2014 - Silver*, at 37, available at <<https://pubs.usgs.gov/of/2004/1251/2004-1251.pdf>>.

metal commodities as a necessary measure to ensure decreased U.S. reliance on foreign imports for critical minerals, consistent with both the 1980 Act and EO 13817.

It is well-known that the U.S. experiences the longest permitting delays in bringing a mine into production. Various studies have estimated delays of 5 to 15 years with the average being 7 to 10 years. By comparison, in Canada and Australia, mines are generally permitted in 2 to 2½ years subject to similar environmental and engineering standards. In a 2014 report entitled *Ranking of Countries for Mining Investment: "Where Not to Invest,"* Behre Dolbear ranked 25 mineral-producing countries for mining investment and found that the U.S. was tied for last place (with Papua New Guinea) in the time it takes to permit a mine for development. The report states:

Permitting delays are the most significant risk to mining projects in the United States. A few mining friendly states (Nevada, Utah, Kentucky, West Virginia, and Arizona) are an exception to this rule but are negatively impacted by federal rules that they are bound to enforce resulting in a seven to ten year waiting period before mine development can begin.<sup>20</sup>

WEX in particular has experienced significant and unnecessary permitting delays, which, in some instances, have lasted several months. As outlined here, the WEX Projects have key economic ramifications in Nevada and beyond, including job creation, tax contribution, and playing a key role in decreasing U.S. reliance on foreign imports for critical minerals. WEX urges in these comments that the DOI address these unnecessary permitting delays, which would further the policy goals outlined in EO 13817 of lessening U.S. import reliance of critical strategic and essential minerals. For example, measures should include streamlining the federal permitting system to reduce America's dependence on foreign sources of not only the minerals included in the Draft List, but, importantly, host or gateway minerals and other minerals essential for economic prosperity, building America's infrastructure, and national defense.

WEX again thanks you for the opportunity to comment on this important issue for our nation and looks forward to continued participation in this and other relevant processes.

**Western Exploration LLC**

By: \_\_\_\_\_

Name: Darcy E. Marud

Title: President and CEO

---

<sup>20</sup> Behre Dolbear, *2014 Ranking of Countries for Mining Investment: "Where Not to Invest,"* at 6, available at <<http://www.pfncapital.com/i/pdf/2014RankingofCountriesforMiningInvestment.pdf>>.



March 15, 2018

Draft Critical Minerals List  
MS-1621

U.S. Department of the Interior  
1849 C Street NW  
Washington, DC 20240

<http://www.regulations.gov> DOI-2018-0001

**RE: Comments on the Draft Critical Minerals List Developed in Response to Executive Order No. 13817 and Secretarial Order No. 3359, USGS Open File Report 2018-1021, FR Vol. 83, No. 33, Page 7065-68**

## **I. Introduction**

Pershing Gold Corporation ("Pershing Gold") is pleased to submit these comments on the Department of the Interior's ("DOI's") draft critical minerals list and the U.S. Geological Survey ("USGS") Open File Report 2018-1021 ("the OFR"). We want to thank President Trump and Secretary Zinke for their vision and leadership in recognizing the importance of developing domestic sources of the minerals that are essential to the nation's technology, manufacturing sector, the economy, and national defense. This letter responds to DOI's request for comments (FR Vol. 83, No. 33, Page 7065-68) seeking input on the make-up of the draft list and offers a rationale for expanding this list.

As discussed in detail below, Pershing Gold is concerned that the draft critical minerals list is incomplete and was developed using a flawed methodology. We take no exception to any of the 35 minerals included in the draft list but find that the list omits many other equally important minerals, including but not limited to precious and base metals, that are used in many essential technology and infrastructure applications, which qualifies them as critical minerals pursuant to President Trump's definition of critical minerals.

Because the USGS' methodology for developing the draft critical minerals list mainly focuses on foreign sources of minerals, it does not give adequate consideration to domestic minerals and the federal policies currently impeding domestic mineral exploration, development, and production. The regulatory and land use policies that constrain mineral exploration and development – especially on the nation's public lands – are a key reason the country is so inappropriately reliant on foreign sources of minerals. The USGS must consider these policy impediments in a revised OFR and in an expanded critical minerals list.

President Trump's December 2017 Critical Minerals Executive Order ("EO") No. 13817 and Secretary Zinke's Secretarial Order ("SO") 3359 clearly establish this Administration's policy directive to increase the supply of domestic minerals. Neither the draft list does nor the OFR adequately respond to the Administration's mandate to reduce the nation's reliance on foreign minerals by increasing the exploration for and development of domestic minerals resources.

Additionally, the draft critical minerals list does not comply with the National Materials and Minerals Policy, Research and Development Act of 1980 (“1980 Act”). (30 U.S.C. §§ 1602 – 1605). The 1980 Act requires the President and the Secretary of the Interior to develop comprehensive programs that address the nation’s needs for reliable supplies of domestic minerals. As noted in SO 3359, this law provides the statutory authority for the critical minerals policies articulated in EO 13817 and SO 3359.

This Administration’s domestic mineral policies are extremely important to Pershing Gold’s plans to put the Relief Canyon Mine in Pershing County, Nevada back into production. The Relief Canyon Mine will become Pershing Gold’s first mining operation. Since acquiring the Relief Canyon property in 2011, we have invested over \$75 million in expanding the gold and silver resources, obtaining the necessary federal and state permits for a mining and heap leaching operation, and readying this site for production. Pending acquisition of the necessary funding, we anticipate we will start mining in late 2018.

Pershing Gold strongly supports President Trump’s and Secretary Zinke’s efforts to streamline the mineral exploration and development permitting process. Like most junior mining companies, Pershing Gold relies on investment capital to fund our mineral exploration and development activities. Measures that would reduce permitting timelines, costs, risks, and uncertainties will make it easier for Pershing Gold and other similarly-situated junior mining companies to raise the necessary capital to explore for and develop mineral projects.

The Relief Canyon Mine is located on Nevada’s checkerboard area of alternating sections of BLM-administered and private lands. The mine produced gold and silver in the late 1980s. Pershing Gold’s efforts to redevelop this mine will create over 200 much-needed jobs in Pershing County. The gold and silver that we will produce are two minerals that are critically important to 21<sup>st</sup> century technologies. These precious metals are used in all modern electronic devices, from cell phones to tablets to computers and in GPS and satellite technologies. Silver and gold also have medical applications including medical imaging technology to diagnose and treat illnesses, antimicrobial bandages, clothing, pharmaceuticals, medical equipment like pacemakers and heart stents.

As discussed in more detail in Section II, the Relief Canyon Project could become a future source of fluor spar, one of the minerals on the USGS’ draft critical minerals list. Fluor spar (also called fluorite) is associated with the gold mineralization at Relief Canyon. In fact, the site was originally prospected for fluorite. Although Pershing Gold has not focused on exploring for fluorite on our lands, there are potential fluorite mineral targets that could be explored with the proper economic and policy incentives.

## **II. Host Minerals are an Important Source of Byproducts Critical Minerals**

The OFR distinguishes between critical minerals and their mineral hosts, which are excluded from the draft critical minerals list. This academic distinction is not relevant to EO 13817. Satisfying the mandates in EO 13817 requires expanding the critical minerals list to include the minerals that host critical minerals. Exploration and development of host minerals like gold, silver, copper, zinc,

lead and others are the most important – if not the only – way to find and obtain many of the listed critical minerals. Additionally, these host minerals are essential to the manufacturing of products critical to our economy and national security and must be considered critical pursuant to the critical minerals definition in EO 13817.

The OFR explains that many of the minerals on the draft critical minerals lists are not typically developed on their own. Usually they are produced as byproducts from the production of other “host” minerals like gold, copper, nickel, zinc, and others:

“Many commodities are not mined directly, but are instead recovered during the processing, smelting, or refining of a host mineral and are, therefore, deemed “byproducts.” ... Byproducts are almost never independently economically viable to mine, thus relying on the economics of the material being mined, which may then yield an economically recoverable concentration of the byproduct...” (OFR at 9-10).

The USGS has omitted the host minerals from the draft critical minerals list despite the fact that byproduct critical mineral production is inseparable from producing the host minerals. This omission renders the draft list incomplete and unresponsive to the directives in EO 13817 because without the host mineral production there would be no production at all of many byproduct critical minerals. USGS acknowledges that “...strategies to increase the domestic supply of these [critical mineral byproduct] commodities also should consider the mining and processing of the host materials because enhanced recovery of byproducts alone may be insufficient to meet U.S. consumption” (OFR at 10). This acknowledgement does not go far enough. Compliance with EO 13817 requires the USGS to add the host minerals to the critical minerals list because the host minerals are a significant – and in some cases the only – source of many of the critical minerals already on the draft list.

The Relief Canyon gold-silver deposit is just one example of how gold, which the OFR classifies as a host mineral rather than a critical mineral, is associated with one or more critical minerals. The Relief Canyon Mine area was originally prospected for fluorite. Fluorspar (another name for fluorite) is one of the 35 critical minerals on the USGS’ draft list. Pershing Gold’s exploration drilling at Relief Canyon shows that fluorite and gold mineralization occur together in many drill holes in which zones of fluorite mineralization typically contain gold.

Despite the fact that Pershing Gold’s geologists believe there are fluorite mineral targets in and near Relief Canyon, our exploration dollars at Relief Canyon are solely devoted to looking for gold. We have never explored for fluorite despite its association with gold because there are no economic drivers to support a fluorite exploration program.

Like nearly all U.S. exploration and mining companies, Pershing Gold’s business model focuses on the exploration, development, and processing of host minerals (in this case precious metals). We have not evaluated whether it would be feasible to explore for and develop fluorite or other byproduct critical minerals like antimony and arsenic, which are also associated with the Relief Canyon gold deposit. There are no economic incentives to look for fluorite or other critical



minerals. We would not be able to interest the investment community in financing a critical minerals exploration program at Relief Canyon or on other lands that Pershing Gold controls.

Because most mineral exploration capital is spent looking for host minerals like gold, silver, copper, etc., the best – and probably the only – way to increase the nation’s supply of byproduct critical minerals in the foreseeable future is to increase exploration, development, and production of host mineral deposits. Encouraging private-sector exploration for host mineral deposits of gold, silver, copper, lead, zinc, nickel, etc., by eliminating the permitting and land tenure barriers to mineral exploration and development discussed in the previous sections would better leverage this investment of private capital. Addressing these problems, as EO 13817 requires, would likely lead to increased investment in mineral exploration and development of domestic host mineral deposits that contain some of the critical minerals on the draft list.

### **III. Federal Policies Currently Impede Domestic Mineral Production and Increase the Nation’s Net Minerals Import Reliance**

#### **A. The Protracted and Costly Permitting Process**

President Trump has correctly identified the permitting process as a key reason why the country is so reliant on foreign sources of minerals:

“Despite the presence of significant deposits of some of these [key] minerals across the United States, our miners and producers are currently limited by a lack of comprehensive, machine-readable data concerning topographical, geological, and geophysical surveys; permitting delays; and the potential for protracted litigation regarding permits that are issued. An increase in private-sector domestic exploration, production, recycling, and reprocessing of critical minerals, and support for efforts to identify more commonly available technological alternatives to these minerals, will reduce our dependence on imports, preserve our leadership in technological innovation, support job creation, improve our national security and balance of trade, and enhance the technological superiority and readiness of our Armed Forces, which are among the Nation’s most significant consumers of critical minerals.” (EO 13817 Findings at 1)

Pershing Gold strongly agrees that the protracted and uncertain permitting process for domestic mineral exploration and development – especially for mineral deposits on public lands – contributes significantly to the country’s reliance on foreign minerals. Consequently, the permit streamlining directives in EO 13817 and SO 3359 are important and much welcomed initiatives to address permitting delays, costs, risks, and uncertainties. Streamlining the permitting process would be an effective way to stimulate investment in the exploration and development of U.S. mineral deposits, capitalize upon our nation’s rich mineral endowment, and enable the country to become less reliant in the future on imports of foreign minerals.

I speak from firsthand experience that the U.S. permitting process chills investors’ interest in financing mineral exploration and development in the U.S. In my capacity as Pershing Gold’s CEO, I have spoken to hundreds of potential investors, bankers, and financial analysts from around

the world about the Relief Canyon Mine. Invariably, these conversations always turn to their perceptions that the U.S. permitting process stands as a significant barrier to timely mine development because it takes too long, costs too much, and is fraught with risk and uncertainty.

The investment community's perception that the U.S. permitting process is risky significantly limits the amount of capital available to junior mining companies like Pershing Gold for exploring and developing U.S. mineral deposits. It is important to recognize that U.S. projects compete with projects around the globe for access to capital. The federal permitting process puts U.S. projects and companies at a competitive disadvantage because investment capital preferentially flows to projects in jurisdictions that are perceived to have less burdensome permitting processes. The measures to streamline the permitting process mandated in EO 13817 and SO 3359 would go a long way towards de-risking project development and would stimulate investor interest in financing U.S. mineral exploration and development projects.

In 2013, the U.S. was tied with Papua New Guinea for last place in the length of time it takes to permit a mine in Behre Dolbear's<sup>1</sup> annual political risk assessment of the global mining industry. This assessment states:

“Permitting delays are the most significant risk to mining projects in the United States...[which are] negatively impacted by federal rules that they are bound to enforce resulting in a 7- to 10-year waiting period before mine development can begin.”<sup>2</sup>

The following year, Behre Dolbear deemed Canada, Australia, and Chile as the three countries with the fewest permitting delays and stated the following about the U.S. permitting process:

“Permitting delays are the most significant risk to mining projects in the United States. A few mining friendly states (Nevada, Utah, Kentucky, West Virginia, and Arizona) are an exception to this rule but are negatively impacted by federal rules that they are bound to enforce resulting in a seven to ten year waiting period before mine development can begin...Increasing competition for mineral resources favors investment in countries perceived to have the lowest political risk. Investment returns are heavily influenced by political risk and a lower risk profile invariably attracts preferential investment that is key to sustaining operations in this capital-intensive sector.”<sup>3</sup>

Similarly, in 2015 the Behre Dolbear study<sup>4</sup> found that the “onerous [U.S.] permitting process...creates sufficient uncertainty to sometimes destroy the viability of new projects.”

The challenges companies experience in attracting investment and securing financing in U.S. mineral exploration and development projects is one of the key reasons the country is so dependent on foreign sources of minerals. The lack of sufficient investment has significantly slowed down

---

<sup>1</sup> Behre Dolbear is an international consulting group specializing in mining.

<sup>2</sup> <http://www.akbizmag.com/Alaska-Business-Monthly/April-2013/Behre-Dolbear-Ranks-US-Last-in-Where-to-Invest-for-Mining/>

<sup>3</sup> <http://www.dolbear.com/wp-content/uploads/2016/04/2014-Where-to-Invest.pdf>

<sup>4</sup> [http://www.mining.com/wp-content/uploads/2015/08/WHERE\\_TO\\_INVEST\\_2015\\_08.pdf](http://www.mining.com/wp-content/uploads/2015/08/WHERE_TO_INVEST_2015_08.pdf)

the rate of discovery of new domestic mineral deposits. Consequently, the pipeline of new domestic mineral discoveries that can be developed into mines in the foreseeable future is nearly empty. The paucity of new discoveries will lead to a steady decline in U.S. mineral production and a concurrent increase in our reliance on mineral imports.

The USGS publishes annual Mineral Commodity Summaries (“MCS”) that include charts documenting the country’s reliance on imported minerals for that year. A comparison of the 1995<sup>5</sup> and 2016<sup>6</sup> charts shown in Exhibit I clearly illustrates a shocking increase in net import reliance between 1995 and 2016. This decline cannot be attributed to a lack of domestic mineral deposits that could potentially be developed into mines or indicate the country has unfavorable geology for hosting mineral deposits. In fact, it is very significant that the USGS – the country’s geological experts charged with understanding U.S. mineral deposits – does not suggest that the country suffers from an inadequate domestic mineral endowment or a lack of viable domestic mineral deposits.

Decades of unfavorable federal policies (e.g., regulatory burdens, permitting delays, and land use restrictions) have had a chilling effect on mineral investment and are the main reason the nation’s reliance on foreign minerals has dramatically increased during the last 20 years. The USGS draft list and OFR will not reverse or even slow this alarming trend. The OFR inappropriately omits an analysis of how unfavorable federal policies increase the country’s net import reliance and is thus an incomplete analysis of the status of the domestic mineral industry. The draft critical minerals list is similarly flawed and incomplete because it does not give adequate consideration to domestic mineral production. The USGS must revise the draft critical minerals list and the OFR to give much more consideration to how policies that foster timely exploration and development of the country’s mineral wealth could reduce our reliance on foreign minerals.

B. Land Use Policies Reduce Mineral Production and Increase the Country’s Net Import Reliance

The gold production statistics for Nevada demonstrate a significant decline in production starting in 2001 and provide a compelling example of how adverse federal policies cause a dramatic decline in production. Figure 1, which is the gold production bar chart from the Nevada Bureau of Mines and Geology’s 2016 Mineral Industry Report<sup>7</sup>, shows Nevada gold production peaked in 1998 at nearly 9 million ounces, when the gold price approached its lowest in recent times – under \$300 per ounce for most of the year,<sup>8</sup> – and has declined ever since then despite the dramatic increase in gold prices.

Although the factors contributing to the decline in gold production are complex, permitting delays and land tenure costs are two reasons for the reduced production. In 1993, Congress enacted the requirement for U.S. claim owners to pay a claims maintenance fee to keep their claims in good

---

<sup>5</sup> U.S. Geological Survey, 1996, Mineral commodity summaries 1995: U.S. Geological Survey, <https://minerals.usgs.gov/minerals/pubs/mcs/1996/nir.gif>.

<sup>6</sup> U.S. Geological Survey, 2017, Mineral commodity summaries 2017: U.S. Geological Survey, 202 p., <https://doi.org/10.3133/70180197>.

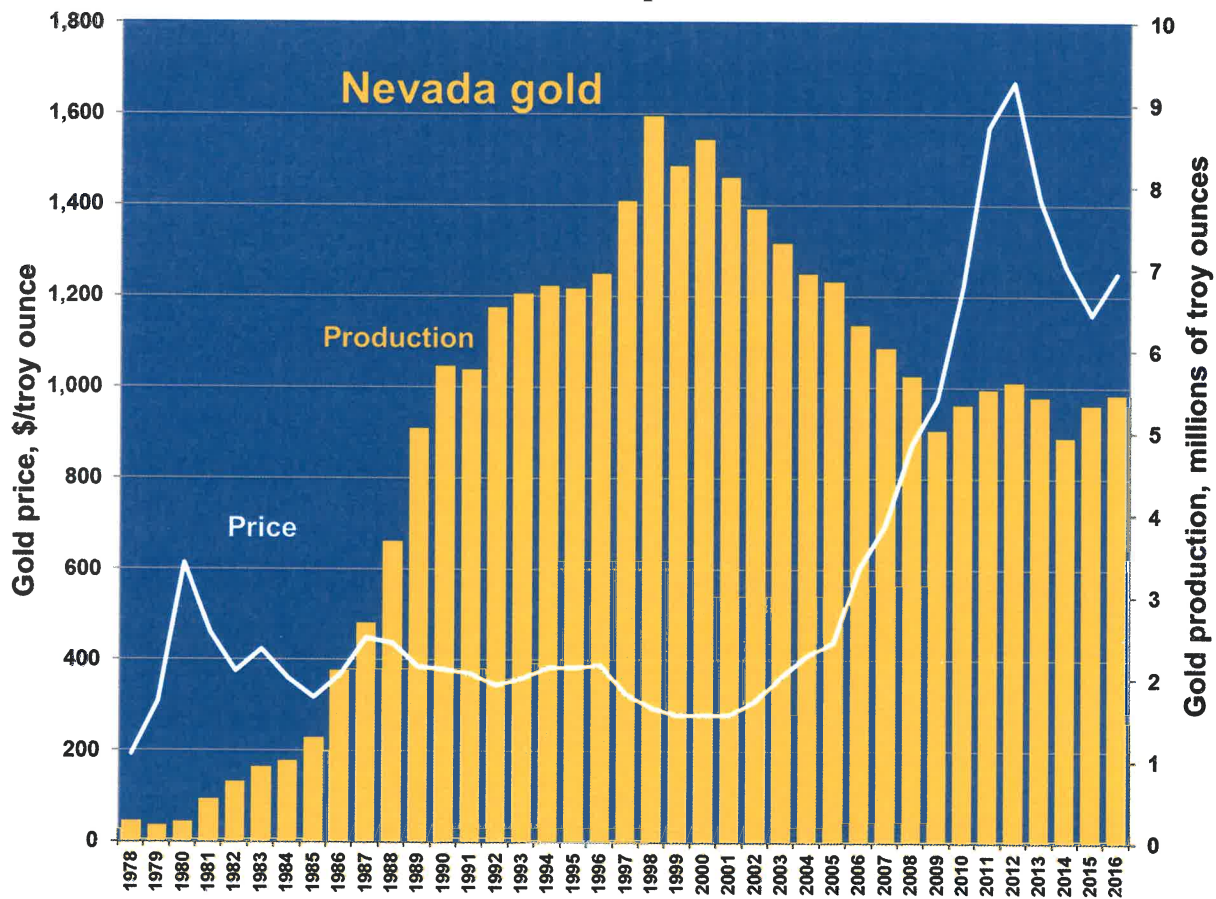
<sup>7</sup> <http://pubs.nbmng.unr.edu/The-NV-mineral-industry-2016-p/mi2016.htm>, Nevada Bureau of Mines and Geology

<sup>8</sup> <http://www.usagold.com/reference/goldprices/1998.html>

standing.<sup>9</sup> Prior to then, claimants had to conduct \$100 per claim of on-the-ground exploration or development work like sampling, drilling, sinking a shaft, etc. to hold their claims. The assessment work requirement advanced the owners' knowledge about the mineral character of the claims and led to discoveries of valuable mineral deposits on some claims.

The substitution of the claims maintenance fee in lieu of assessment work has siphoned enormous resources away from on-the-ground mineral exploration and development activities, which in turn has slowed the pace of discovery and the subsequent development of claims into operating mines. The high production levels in the 1997 – 2000 timeframe represent the discoveries that had already been made and were in the process of being developed into mines when the claims fee was enacted. Following enactment of the claims fee, the number of mineral discoveries began to shrink because payment of the claims maintenance fee diminished the funds available to explore attractive mineral targets and advance them to the mine development stage.

**Figure 1. Nevada Annual Gold Production Compared to the Gold Price<sup>10</sup>**



Another federal land use policy that the USGS should examine in a revised OFR is the adverse impact that land withdrawals and land use restrictions have on the nation's domestic mineral

<sup>9</sup> The claims maintenance fee was enacted in the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66 §§ 10101 to 10106, 107 Stat. 312, 405-07 (Aug. 10, 1993)

<sup>10</sup> Nevada Bureau of Mines and Geology, *op cit* at 6.



supply chain. Over 109 million acres<sup>11</sup> are Congressionally-designated Wilderness Areas that are off-limits to mineral activities. Some of these areas have mineral potential that will be forever unexplored and undeveloped unless Congress changes the status of these lands. Another 12.6 million acres are Wilderness Study Areas (“WSAs”), which BLM manages “to preserve wilderness characteristics so as not to impair the suitability of such areas for designation by Congress as wilderness regardless of their suitability for wilderness designation in a manner to prevent impairment of wilderness characteristics.”<sup>12</sup> This non-impairment criterion, which applies to all WSAs – including those that BLM has recommended as non-suitable for wilderness – severely limits mineral activities.

In September 1999, BLM recommended to Congress that roughly 8.8 million WSA acres were “non-suitable” for wilderness designation.<sup>13</sup> Unfortunately nearly 20 years later, Congress has not decided whether to confer wilderness status on those WSAs that BLM identified as suitable for wilderness designation and to release the non-suitable WSAs back to a multiple use management status. Congressional action on the WSAs is relevant to the issue of the nation’s reliance on foreign minerals because some WSAs have mineral potential. Restoring these lands to multiple use where exploration and mining can take place could lead to discoveries of mineral deposits that could become sources of critical minerals.

Policies that put lands off-limits to mining need to be carefully considered in the context of the Administration’s stated objectives to increase domestic mineral production and reduce the country’s net import reliance. With this in mind, USGS should revise the OFR to evaluate how the claims maintenance fee, land withdrawals and land use restrictions increase the nation’s reliance on foreign sources of minerals.

#### **IV. The Draft Critical Minerals List Must Comply with the Critical Minerals Definition in EO 13817**

Section 2 of EO 13817 defines a critical mineral as follows:

- (i) a non-fuel mineral or mineral material essential to the economic and national security of the United States;
- (ii) the supply chain of which is vulnerable to disruption; and
- (iii) that serves an essential function in the manufacturing of a product, the absence of which would have significant consequences for our economy or our national security.

The USGS’ methodology largely ignores this definition and fails to respond to the key directives in this EO. The resulting draft critical minerals list is thus inconsistent with the definition in EO 13817. The OFR and the draft list do not consider all of the minerals that are “essential to the economic and national security of the United States,” as the first clause in President Trump’s critical minerals definition requires.

---

<sup>11</sup> <https://www.fs.fed.us/managing-land/wilderness>

<sup>12</sup> BLM Manual 6330 at 1-2.

<sup>13</sup> [https://www.blm.gov/public\\_land\\_statistics/pls99/99pl5-9.pdf](https://www.blm.gov/public_land_statistics/pls99/99pl5-9.pdf)

Secondly, the OFR focuses mainly on foreign supply chain issues and fails to consider how the unfavorable federal policies discussed in Section III restrict development of the domestic supply chain for critical minerals. The main purpose of EO 13817 is to reduce the vulnerability of the critical mineral supply chain and the nation's reliance on foreign minerals. Unfortunately, the focus of the OFR is much narrower and does not adequately consider how increasing domestic production of the nation's mineral resources is the best way to minimize our reliance on foreign sources of minerals and reduce supply chain vulnerabilities.

Because the critical minerals definition in EO 13817 explicitly includes minerals essential to the manufacturing of products, the draft critical minerals list omits many essential minerals like gold, silver, copper, lead, zinc, etc. that are essential to many manufacturing, sectors, technology, and infrastructure. The USGS needs to expand the critical minerals list to include all minerals that are essential to the manufacturing sector in order to satisfy the third element of President Trump's critical minerals definition. As discussed in Section II, critical minerals are typically associated with host minerals including gold, silver, copper, lead, zinc, and others. The critical minerals list must include the host minerals.

Section 3 of EO 13817 establishes the following policy:

“It shall be the policy of the Federal Government to reduce the Nation's vulnerability to disruptions in the supply of critical minerals, which constitutes a strategic vulnerability for the security and prosperity of the United States. The United States will further this policy for the benefit of the American people and in a safe and environmentally responsible manner, by:

- (a) identifying new sources of critical minerals;
- (b) increasing activity at all levels of the supply chain, including exploration, mining, concentration, separation, alloying, recycling, and reprocessing critical minerals;
- (c) ensuring that our miners and producers have electronic access to the most advanced topographic, geologic, and geophysical data within U.S. territory to the extent permitted by law and subject to appropriate limitations for purposes of privacy and security, including appropriate limitations to protect critical infrastructure data such as those related to national security areas; and
- (d) streamlining leasing and permitting processes to expedite exploration, production, processing, reprocessing, recycling, and domestic refining of critical minerals.

USGS must revise and expand the critical minerals list and the OFR to respond to each element of the policy objectives in EO 13817 and President Trump's critical minerals definition. The resulting analysis must thoroughly evaluate domestic mineral resources and the factors currently impeding the exploration and development of the nation's mineral deposits – including host minerals like

copper, gold, silver, lead, and zinc. A revised and expanded critical minerals list must include all minerals essential to our economy and national security.

**V. The Critical Minerals List and the OFR Must Comply with the National Materials and Minerals Policy, Research and Development Act of 1980**

The National Materials and Minerals Policy, Research and Development Act of 1980 (“the 1980 Act”) at 30 U.S.C. §§ 1602 – 1605 establishes the importance of a stable supply of critical materials and “a need for a coordinated program to ensure the availability of materials critical for national economic well-being, defense, and industrial production.” The definitions and directives in EO 13817 and SO 3359<sup>14</sup> respond to the findings in the 1980 Act and implement its mandates.

In the 1980 Act, Congress found:

“the United States lacks a coherent national materials policy and a coordinated program to assure the availability of materials critical for national economic well-being, national defense, and industrial production, including interstate commerce and foreign trade.” (30 U.S.C. § 1601(7).

In response to this finding, Congress declared:

“...it is the continuing policy of the United States to promote an adequate and stable supply of materials necessary to maintain national security, economic well-being and industrial production with appropriate attention to a long-term balance between resource production, energy use, a healthy environment, natural resource conservation, and social needs.” (30 U.S.C. § 1602)

The broad definition of materials in Section 2(b) of the 1980 Act as minerals currently in use or likely to be used in the future for “industrial, military, and essential civilian needs...in the production of goods and services,” *requires* the Administration to develop comprehensive programs that address the nation’s needs for reliable supplies of domestic minerals. Both the President’s and the Secretary’s Critical Minerals orders respond to the mandates in the 1980 Act, which administrations from both parties have largely ignored for more than three decades. Pershing Gold applauds President Trump’s and Secretary Zinke’s efforts to develop policies to implement the directives in the long-neglected 1980 Act. Achieving compliance with the 1980 Act by implementing the directives in EO 13817 and SO 3359 would send a strong signal that the U.S. is open for responsible mineral exploration and development.

The 1980 Act requires the President to:

- Identify materials needs and assist in the pursuit of measures that would assure the availability of materials critical to commerce, the economy, and national security. (30 U.S.C. § 1602(1));

---

<sup>14</sup> Secretarial Order 3359 cites the 1980 Act as statutory authority for the order.

- Direct that the responsible departments and agencies identify, assist, and make recommendations for carrying out appropriate policies and programs to ensure adequate, stable, and economical materials supplies essential to national security, economic well-being, and industrial production; (30 U.S.C. § 1603(1));
- Support basic and applied research and development to provide for...advanced science and technology for the exploration, discovery, and recovery of nonfuel materials, (30 U.S.C. § 1603(2)(A))
- Assess Federal policies which adversely or positively affect all stages for the materials cycle, from exploration to final product recycling and disposal (30 U.S.C. § 1603(8));
- Promote and encourage private enterprise in the development of economically sound and stable domestic materials industries (30 U.S.C. § 1602(6)); and
- [Make] recommendations for the collection, analysis, and dissemination of information concerning domestic and international long-range materials demand, supply and needs. (30 U.S.C. § 1604(2)).

Consistent with the 1980 Act, Section 3 of EO 13817 establishes that it “shall be the policy of the Federal Government to reduce the Nation’s vulnerability to disruptions in the supply of critical minerals, which constitutes a strategic vulnerability for the security and prosperity of the United States.” The directives to the Secretary of the Interior in Section 3 of EO 13817 to: 1) identify new sources of critical minerals; 2) increase exploration, mining, concentration, separation, alloying, recycling, and reprocessing to improve the critical minerals supply chain; 3) provide better topographic, geologic, and geophysical data; and 4) streamline the leasing and permitting processes to expedite exploration, production, processing, reprocessing, recycling, and domestic refining of critical minerals comply with the mandates in the 1980 Act.

The directives in EO 13817 are very broad, seeking to reduce the country’s reliance on mineral imports from all countries – not just countries that are or may become hostile to the U.S. The OFR inappropriately dismisses imports from friendly countries like Canada, stating that mineral imports from Canada do not pose a supply risk (OFR at 9). However, compliance with the 1980 Act and satisfying the objectives in EO 13817 will require increasing domestic production of minerals to reduce the country’s reliance on mineral imports from all countries. The 1980 Act does not sanction preferentially obtaining minerals from foreign countries for those minerals that could be produced from U.S. mines.

## **VI. Conclusions**

Development of a critical minerals list could have far-reaching and unintended consequences if it is used to set a preference for which minerals can be developed, or developed on a priority basis, and which minerals should receive a lower priority. Market conditions – rather than a critical minerals list – should continue to drive mineral production. However, market conditions could be improved for mineral exploration, development, and production with a properly expanded list that includes host minerals and eliminating the unfavorable federal policies discussed in Section III



that currently impede mineral activities. These measures would help improve the nation's domestic mineral supply chain and reduce the nation's reliance on foreign minerals.

Pershing Gold very much appreciates this opportunity to provide comments on the draft critical minerals list and the OFR. We commend the Trump Administration for focusing on the importance of improving our supply of domestic minerals and reducing the nation's reliance on foreign minerals. Pershing Gold is especially grateful for this Administration's efforts to eliminate the regulatory barriers and permitting delays that stand in the way of the responsible and timely development of domestic mineral deposits.

Pershing Gold would very much appreciate an opportunity to continue to provide input to the USGS as it works to refine the critical minerals list by expanding it as recommended in this letter. We also would welcome the opportunity to offer more specific ideas about ways to improve the permitting process and strategies for attracting more investment in domestic mineral exploration and development.

Sincerely yours,



Stephen D. Alfors  
CEO, President, and Executive Chairman

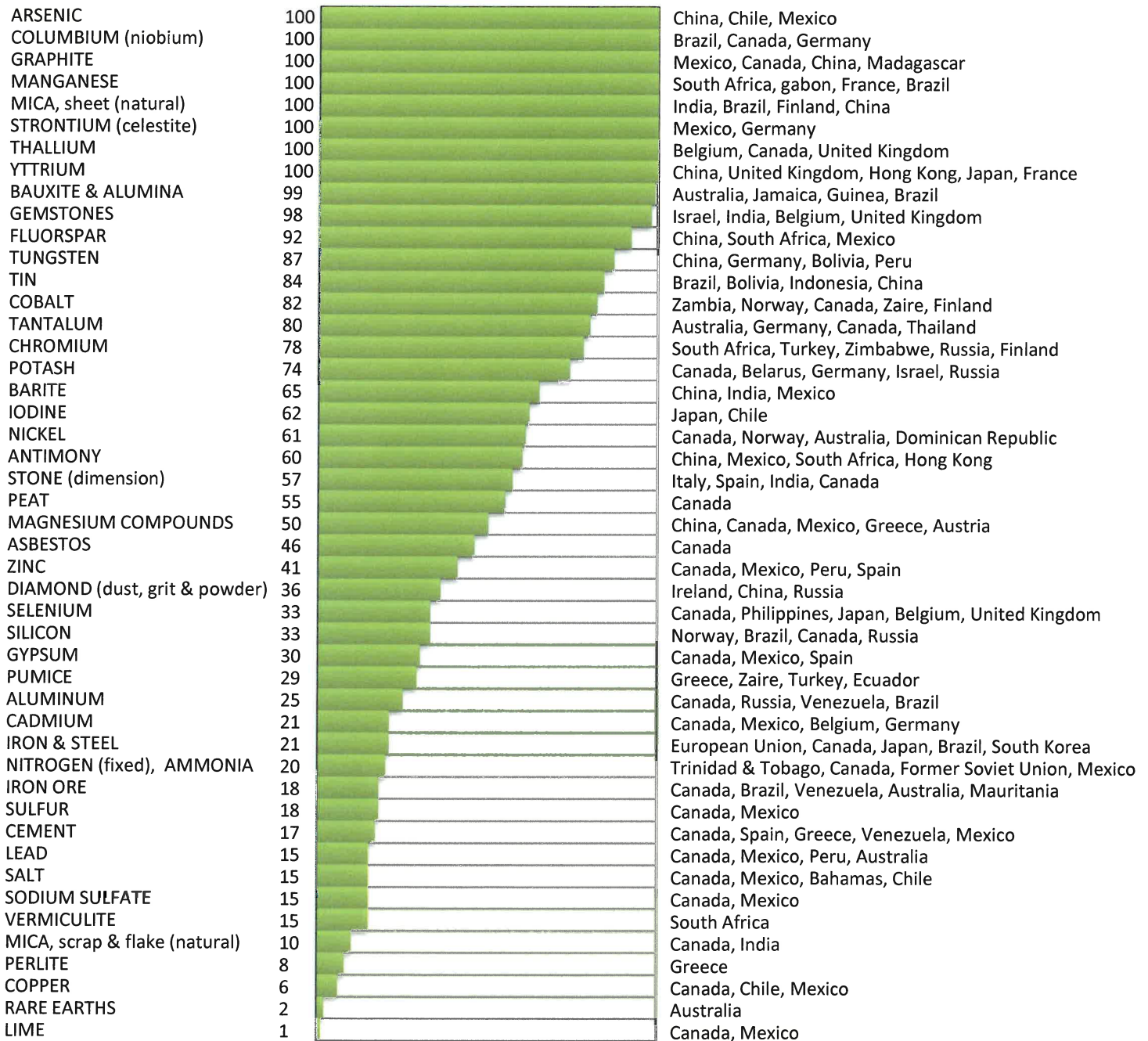
Attachment: Exhibit I – 1995 and 2016 USGS Net Mineral Import Reliance Charts

**EXHIBIT 1**

1995 and 2016 U.S. Net Import Reliance Charts

Sources: 1996 and 2017 USGS Mineral Commodity Surveys

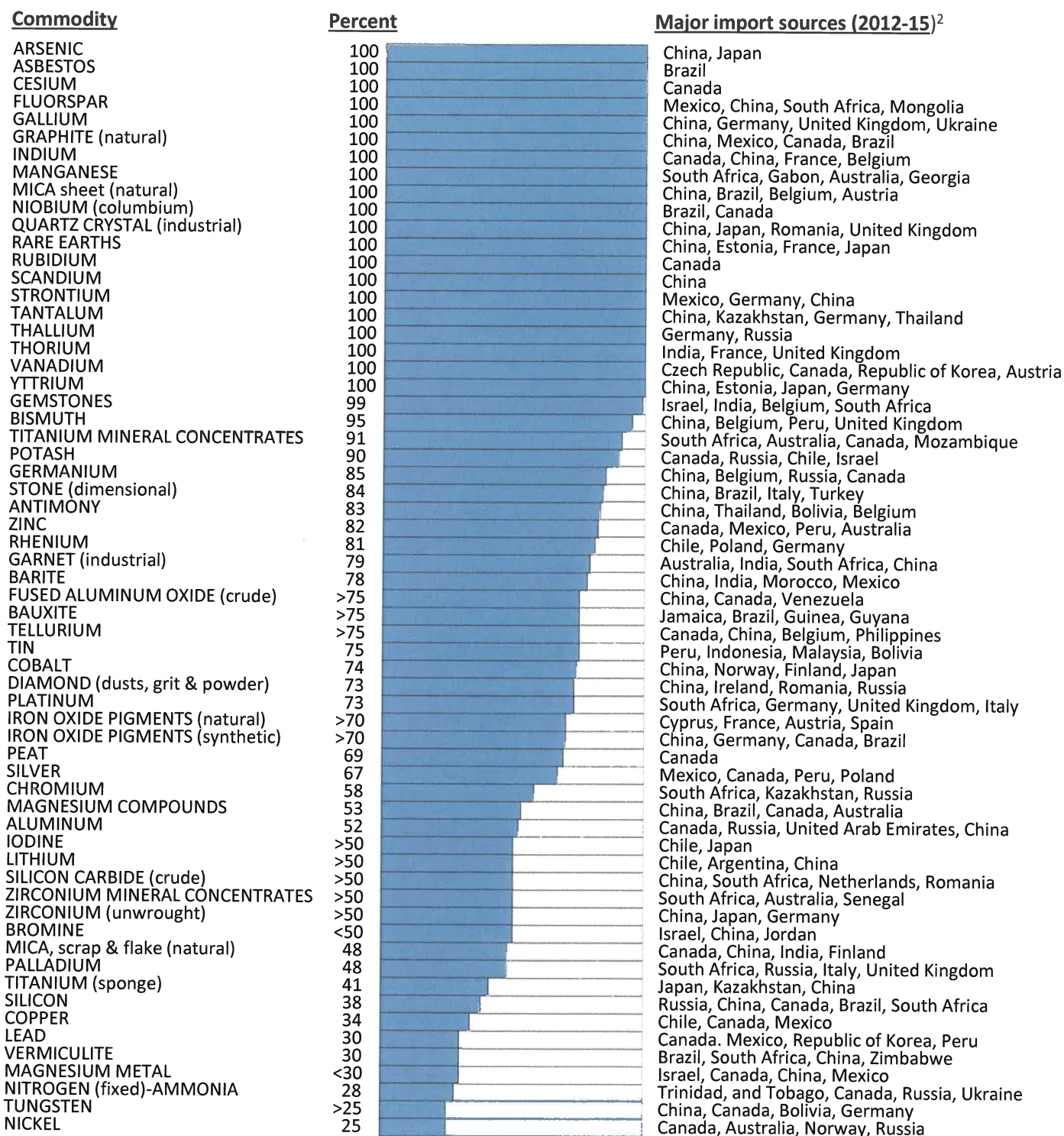
# 1995 U.S. NET IMPORT RELIANCE FOR SELECTED NONFUEL MINERAL MATERIALS



Additional commodities for which there is some import dependency include:

Bismuth	Mexico, Belgium, China, Peru	Platinum	South Africa, United Kingdom, Belgium, Germany
Gallium	France, Germany, Russia, United Kingdom, Hungary	Rhenium	Chile, Germany, United Kingdom, Russia, Kazakhstan
Ilmenite	South Africa, Australia, Canada	Rutile	Australia, Sierra Leone, South Africa
Indium	Canada, France, Italy, Belgium, Russia	Silver	Mexico, Canada, Peru, Chile
Iron & steel slag	Canada, Japan	Thorium	Australia
Kyanite	South Africa, France	Titanium (sponge)	Russia, Japan, China
Mercury	Canada, Russia, Germany	Vanadium	Russia, South Africa, Canada, Mexico
		Zirconium	Australia, South Africa

# 2016 U.S. NET IMPORT RELIANCE<sup>1</sup>



<sup>1</sup>Not all mineral commodities covered in this publication are listed here. Those not shown include mineral commodities for which the United States is a net exporter (alumina; boron; clays; diatomite; helium; iron and steel scrap; iron ore; kyanite; molybdenum; sand and gravel, industrial; selenium; soda ash; titanium dioxide pigment; wollastonite; and zeolites) or less than 25% import reliant (abrasives, metallic, beryllium; cadmium; cement; diamond, industrial stones; feldspar; gypsum; iron and steel; iron and steel slag; lime; perlite; phosphate rock; pumice; sand and gravel, construction; salt; stone, crushed; sulfur and talc). For some mineral commodities (gold, hafnium, and mercury), not enough information is available to calculate the exact percentage of import reliance.

<sup>2</sup>In descending order of import share.

<sup>3</sup>Data include lanthanides



P.O. Box 10101  
Reno, NV 89510  
[info@wmc-usa.org](mailto:info@wmc-usa.org)

*sent via electronic mail*

March 19, 2018

Draft Critical Minerals List  
MS-1621  
U.S. Department of the Interior  
1849 C Street NW  
Washington, DC 20240  
<http://www.regulations.gov> DOI-2018-0001

**RE: Comments on the Draft Critical Minerals List Developed in Response to Executive Order No. 13817 and Secretarial Order No. 3359, USGS Open File Report 2018-1021, FR Vol. 83, No. 33, Page 7065-68**

## **I. Introduction**

The Women's Mining Coalition (WMC) very much appreciates this opportunity to submit these comments on the Department of the Interior's ("DOI's") draft critical minerals list and the U.S. Geological Survey ("USGS") Open File Report 2018-1021 ("the OFR"). This letter responds to DOI's request for comments (FR Vol. 83, No. 33, Page 7065-68) seeking input on the make-up of the draft list and offers a rationale for expanding this list.

We applaud President Trump and Secretary Zinke for their vision and leadership in recognizing the importance of developing domestic sources of the minerals that are essential to the nation's technology, manufacturing sector, the economy, and national defense. However, for the reasons discussed herein, WMC believes the draft critical minerals list was developed using a shortsighted methodology that does not consider all aspects of the critical mineral definition in President Trump's December 2017 Critical Minerals Executive Order ("EO") No. 13817. Consequently, the resulting list does not conform to President Trump's definition and does not comply with this EO because the list omits many important minerals, including but not limited to precious and base metals, that are used in the manufacturing and technology sectors and are the building blocks needed to support President Trump's infrastructure agenda.

President Trump's EO and Secretary Zinke's Secretarial Order ("SO") 3359 clearly establish this Administration's policy directives to increase the supply of domestic minerals. Unfortunately, in developing the draft critical minerals list and the OFR, the USGS has not completed the assignment it was given in EO 13817. Neither the draft list nor the OFR adequately respond to the Administration's mandate to reduce the nation's reliance on foreign minerals by increasing the exploration for and development of domestic minerals resources.

Additionally, WMC is concerned that the draft critical minerals list is not consistent with the requirements of the National Materials and Minerals Policy, Research and Development Act of 1980 (“1980 Act”). (30 U.S.C. §§ 1602 – 1605). The 1980 Act requires the President and the Secretary of the Interior to develop comprehensive programs that address the nation’s needs for reliable supplies of domestic minerals. As noted in SO 3359, this law provides the statutory authority for the critical minerals policies articulated in EO 13817 and SO 3359.

This Administration’s domestic mineral policies are a much-welcomed change from the past and are extremely important to WMC’s members working in the hardrock mining sector. We completely support President Trump’s and Secretary Zinke’s efforts to streamline the mineral exploration and development permitting process. We believe that measures to reduce permitting timelines, costs, risks, and uncertainties will stimulate domestic exploration and development and help reduce the nation’s reliance on foreign minerals.

### About WMC

WMC is a grassroots organization with members nationwide. Our members work in all sectors of the mining industry including hardrock, industrial minerals, and coal; energy generation and mining-related distribution, manufacturing, transportation, and service industries. We hold annual Washington, DC Fly-Ins to meet with members of Congress and their staff, and federal land management and regulatory agencies to discuss issues of importance to both the hardrock and coal mining sectors.

For many years, WMC has been concerned about the country’s steadily increasing reliance on foreign minerals. During the last several Fly-In’s we have presented the charts shown in Exhibit I from the 1996<sup>1</sup> and 2017<sup>2</sup> USGS’ Mineral Commodity Summaries. These charts document a shocking increase in the net mineral import reliance in the 21-year period from 1995 to 2016. Given our focus on this important issue, we fully support this Administration’s initiatives to take the necessary steps to reverse this alarming trend.

A number of WMC members are exploration geologists who have firsthand knowledge of the country’s mineral endowment. Many other WMC members are environmental professionals who help companies get the permits needed to explore for minerals and build mines. Based on this collective expertise, we know that our increasing reliance on imported minerals is not due to a lack of domestic mineral targets warranting exploration and potential development. Rather, WMC believes that the increase in the nation’s foreign mineral reliance is due in large part to unfavorable federal policies – regulatory barriers, permitting delays, land withdrawals, and land use restrictions that impede, and in some cases prohibit, mineral exploration and development. As described below, the USGS must consider these policy impediments in a revised OFR and in an expanded critical minerals list.

## **II. The Draft Critical Minerals List and the OFR Do Not Adequately Respond to EO 13817**

There are two fundamental problems with USGS’s work products. First, the draft critical minerals list does not comply with President Trump’s critical minerals definition. Secondly, the OFR is unresponsive to the directives in EO 13817 to reduce the country’s reliance on foreign minerals.

---

<sup>1</sup> U.S. Geological Survey, 1996, Mineral commodity summaries 1995: U.S. Geological Survey, <https://minerals.usgs.gov/minerals/pubs/mcs/1996/nir.gif>.

<sup>2</sup> U.S. Geological Survey, 2017, Mineral commodity summaries 2017: U.S. Geological Survey, 202 p., <https://doi.org/10.3133/70180197>



Section 2 of EO 13817 defines a critical mineral as follows:

- (i) a non-fuel mineral or mineral material essential to the economic and national security of the United States;
- (ii) the supply chain of which is vulnerable to disruption; and
- (iii) that serves an essential function in the manufacturing of a product, the absence of which would have significant consequences for our economy or our national security.

The USGS' methodology largely ignores this definition and fails to respond to the key directives in this EO. The resulting draft critical minerals list is thus inconsistent with the definition in EO 13817. The OFR and the draft list do not consider all of the minerals that are "essential to the economic and national security of the United States," as the first clause in President Trump's critical minerals definition requires.

The OFR fails to analyze the reasons the U.S. is so dependent on foreign minerals. WMC strongly recommends that DOI's response to the directives in EO 13817 requires a careful evaluation of how the unfavorable federal policies discussed in Sections III and IV restrict development of the domestic supply chain for critical minerals. The narrowly focused OFR does not properly consider the essential role that increasing domestic production of the nation's mineral resources would play in reducing the nation's reliance on foreign sources of minerals and reduce supply chain vulnerabilities. Consequently, the OFR does not satisfy the main purpose of EO 13817, which is to reduce the vulnerability of the critical mineral supply chain and the nation's reliance on foreign minerals.

The third element of the critical minerals definition in EO 13817 explicitly defines minerals essential to the manufacturing of products as critical minerals. The draft critical minerals list ignores this component of the critical minerals definition and omits many essential minerals like gold, silver, copper, lead, zinc, nickel, etc. that are essential to many manufacturing sectors, technology, and infrastructure. The USGS needs to expand the critical minerals list to include all minerals that are essential to the manufacturing sector in order to satisfy the third clause of President Trump's critical minerals definition.

Minerals deposits of gold, silver, copper, lead, zinc, nickel and others typically serve as the hosts for critical minerals that are produced as byproducts of the host minerals. As discussed in Section V, this host-byproduct relationship is another reason why the USGS must expand the critical minerals list to include host minerals.

Section 3 of EO 13817 establishes the following policy:

"It shall be the policy of the Federal Government to reduce the Nation's vulnerability to disruptions in the supply of critical minerals, which constitutes a strategic vulnerability for the security and prosperity of the United States. The United States will further this policy for the benefit of the American people and in a safe and environmentally responsible manner, by:

- (a) identifying new sources of critical minerals;
- (b) increasing activity at all levels of the supply chain, including exploration, mining, concentration, separation, alloying, recycling, and reprocessing critical minerals;



(c) ensuring that our miners and producers have electronic access to the most advanced topographic, geologic, and geophysical data within U.S. territory to the extent permitted by law and subject to appropriate limitations for purposes of privacy and security, including appropriate limitations to protect critical infrastructure data such as those related to national security areas; and

(d) streamlining leasing and permitting processes to expedite exploration, production, processing, reprocessing, recycling, and domestic refining of critical minerals.

To satisfy each element of the policy objectives in EO 13817 and President Trump’s critical minerals definition, USGS must revise and expand the critical minerals list to include all minerals essential to our economy and national security. Similarly, a revised OFR must discuss the factors currently constraining domestic mineral exploration, development, and production.

WMC would like to express its strong support for President Trump’s directive to develop better topographic, geologic, and geophysical data. We are confident that improvements in technology and better access to fundamental mapping and geophysical data will lead to new discoveries of domestic mineral deposits that can be developed into mines that produce minerals and reduce our reliance on mineral imports.

### **III The Protracted and Costly Federal Permitting Process Impedes Domestic Mineral Production and Increases the Nation’s Net Minerals Import Reliance**

Section 1 of EO 13817 states:

“Despite the presence of significant deposits of some of these [key] minerals across the United States, our miners and producers are currently limited by a lack of comprehensive, machine-readable data concerning topographical, geological, and geophysical surveys; permitting delays; and the potential for protracted litigation regarding permits that are issued. An increase in private-sector domestic exploration, production, recycling, and reprocessing of critical minerals, and support for efforts to identify more commonly available technological alternatives to these minerals, will reduce our dependence on imports, preserve our leadership in technological innovation, support job creation, improve our national security and balance of trade, and enhance the technological superiority and readiness of our Armed Forces, which are among the Nation’s most significant consumers of critical minerals.” (EO 13817 Findings at 1)

WMC members have direct experience with the time-consuming and costly permitting process for domestic mineral exploration and development – especially for mineral deposits on public lands. We believe that the arduous permitting process, which is fraught with risks and uncertainties, is one of the key reasons for the country’s reliance on foreign minerals. We thus welcome and support the permit streamlining directives in EO 13817 and SO 3359 to reduce permitting delays, costs, risks, and uncertainties. WMC believes that streamlining the permitting process would stimulate investment in the exploration and development of U.S. mineral deposits, capitalize upon our nation’s rich mineral endowment, and enable the country to become less reliant in the future on imports of foreign minerals.

The U.S. currently suffers from a bad reputation as having a very slow and risky permitting process. This reputation discourages mineral investment. For example, in a 2013 survey of favorable countries for mineral investment, the U.S. was tied with Papua New Guinea for last place as having the slowest permitting process – taking from seven to 10 years.<sup>3</sup> Investors’ impressions that the U.S. permitting process is risky significantly limits investment in the U.S. mineral exploration and mining sectors. Our reputation as a difficult place to secure permits for mineral exploration and development puts the U.S. mineral industry at a competitive disadvantage, leaving many worthwhile mineral projects underfunded – or not funded at all. The permit streamlining directives in EO 13817 and SO 3359 will help de-risk project development and stimulate investor interest in financing U.S. mineral exploration and development projects.

We note that the OFR does not attribute the country’s net import reliance on an inadequate domestic mineral endowment or a lack of viable domestic mineral deposits. This is a very significant point that cannot be overlooked in assessing the reasons for our import reliance. WMC believes that the challenges in attracting investment and financial support due in large measure to the country’s reputation as having a costly, time-consuming, and risky permitting process is one of the key reasons we import so many of the minerals we need.

The lack of adequate investment has significantly slowed down the rate of discovery of new domestic mineral deposits. Consequently, the number of new domestic mineral discoveries that can be developed into mines in the foreseeable future is small. This shortage of new discoveries has produced a steady decline in U.S. mineral production and a concurrent increase in our reliance on mineral imports.

WMC believes the OFR is incomplete and of limited application because it does not evaluate the steps the country needs to take to reduce our reliance on foreign minerals. As part of this analysis, the USGS should revise the OFR to identify policies that would promote timely exploration and development of the country’s mineral wealth in order to reduce our reliance on foreign minerals.

#### **IV. Land Use Policies Reduce Mineral Production and Increase the Country’s Net Import Reliance**

The USGS should also examine how federal land use policies that withdraw lands from mineral entry and impose problematic land use restrictions that impede mineral exploration and development are another reason for the country’s reliance on foreign minerals. For example, there are over 109 million acres of Congressionally-designated Wilderness Areas<sup>4</sup> which are off-limits to mineral activities. Although some WSAs have mineral potential, these federally protected areas will be forever unexplored and undeveloped unless Congress changes the status of these lands.

Another 12.6 million acres are Wilderness Study Areas (“WSAs”), which BLM manages “to preserve wilderness characteristics so as not to impair the suitability of such areas for designation by Congress as wilderness regardless of their suitability for wilderness designation in a manner to prevent impairment of wilderness characteristics.”<sup>5</sup> This non-impairment criterion, which applies to all WSAs – including those that BLM has recommended as non-suitable for wilderness – severely limits mineral activities.

---

<sup>3</sup> <http://www.akbizmag.com/Alaska-Business-Monthly/April-2013/Behre-Dolbear-Ranks-US-Last-in-Where-to-Invest-for-Mining/>

<sup>4</sup> <https://www.fs.fed.us/managing-land/wilderness>

<sup>5</sup> BLM Manual 6330 at 1-2.

In September 1999, BLM recommended to Congress that roughly 8.8 million WSA acres were “non-suitable” for wilderness designation.<sup>6</sup> Unfortunately nearly 20 years later, Congress has not decided whether to confer wilderness status on those WSAs that BLM identified as suitable for wilderness designation and to release the non-suitable WSAs back to a multiple use management status. Congressional action on the WSAs is relevant to the issue of the nation’s reliance on foreign minerals because some WSAs have mineral potential. Restoring these lands to multiple use where exploration and mining can take place could lead to discoveries of mineral deposits that could become sources of critical minerals.

The 2015 Greater Sage-Grouse management plans are an example of an administrative policy that imposes serious land use restrictions that severely impact mineral activities. The travel restrictions, seasonal constraints, buffer zones, and noise limits, are examples of the restrictions in these plans that are problematic for mineral exploration and development. The Sagebrush Focal Areas and the proposed withdrawal of roughly 10 million acres of lands from operation of the Mining Law was especially troubling. WMC is pleased that this proposed withdrawal is no longer under consideration and hopes that the ongoing effort to reevaluate these plans will lift or minimize some of the barriers to mineral activities and other multiple uses.

We raise the Sage-Grouse land management plans as an example of how administrative actions chill investment in U.S. mineral projects by sending the signal that the western U.S. is a difficult and unfriendly place for mineral exploration and development. In response to EO 13817, the DOI should evaluate how policies that withdraw lands from mineral entry, limit access to public lands, or impose land use restrictions that make mineral exploration and development difficult if not impossible are inconsistent with the Trump Administration’s objectives to increase domestic mineral production and reduce the country’s net import reliance.

## **V. The Critical Minerals List Must be Expanded to Include Host Minerals**

The OFR’s distinction between critical minerals and their mineral hosts is not relevant to EO 13817. Although WMC recognizes that this distinction is useful in a geologic context, it is not consistent with the definition of critical minerals in EO 13817 and should not be used in USGS’ response to EO 13817.

The OFR explicitly states that many of the minerals on the draft critical minerals lists are not typically produced on their own; they are byproducts from the production of other “host” minerals like gold, copper, nickel, zinc, and others:

“Many commodities are not mined directly, but are instead recovered during the processing, smelting, or refining of a host mineral and are, therefore, deemed “byproducts.” ... Byproducts are almost never independently economically viable to mine, thus relying on the economics of the material being mined, which may then yield an economically recoverable concentration of the byproduct...” (OFR at 9-10).

Despite USGS’ admission that byproduct critical mineral production is inseparable from producing the host minerals, the OFR curiously omits the host minerals from the draft critical minerals list. Consequently, the draft list is incomplete and does not fulfill the directives in EO 13817. The following statement in the OFR makes it obvious that host minerals are critically important and should not be excluded from the critical minerals list:

---

<sup>6</sup> [https://www.blm.gov/public\\_land\\_statistics/pls99/99pl5-9.pdf](https://www.blm.gov/public_land_statistics/pls99/99pl5-9.pdf)

“...strategies to increase the domestic supply of these [critical mineral byproduct] commodities also should consider the mining and processing of the host materials because enhanced recovery of byproducts alone may be insufficient to meet U.S. consumption” (OFR at 10)

Because host minerals are a significant – and in some cases the only – source of many of the critical minerals already on the draft list, the USGS must add the host minerals to the critical minerals list in order to respond to EO13817.

Another reason why EO 13817 requires the USGS to add host minerals to the critical minerals list is that host minerals are essential to the manufacturing of products critical to our economy and national security. The third clause of President Trump’s critical minerals definition explicitly sweeps in all minerals that “serve[s] an essential function in the manufacturing of a product, the absence of which would have significant consequences for our economy or our national security.”

WMC members who are geologists are greatly troubled by the mischaracterization of host mineral deposits like copper, gold, and silver as “ubiquitous” (OFR at 8). USGS appears to imply that deposits of copper, gold, silver and other important minerals currently excluded from the critical minerals list are not critical because they are so commonplace (i.e., “ubiquitous”). Deposits of gold, silver, copper, zinc, nickel, etc. are geologic rarities that are difficult and expensive to discover and develop. We hope this misstatement is simply an editing error that will be corrected in a revised OFR. However, WMC is concerned that the omission of host minerals from the critical minerals list is premised on the geologically absurd notion that host minerals are everywhere and easy to find.

## **VI. The Critical Minerals List and the OFR Do Not Comply with the National Materials and Minerals Policy, Research and Development Act of 1980**

In the National Materials and Minerals Policy, Research and Development Act of 1980 (“the 1980 Act”) at 30 U.S.C. §§ 1602 – 1605 Congress found the following:

“a need for a coordinated program to ensure the availability of materials critical for national economic well-being, defense, and industrial production.” The definitions and directives in EO 13817 and SO 3359<sup>7</sup> respond to the findings in the 1980 Act and implement its mandates.

“the United States lacks a coherent national materials policy and a coordinated program to assure the availability of materials critical for national economic well-being, national defense, and industrial production, including interstate commerce and foreign trade.” (30 U.S.C. § 1601(7).

“...it is the continuing policy of the United States to promote an adequate and stable supply of materials necessary to maintain national security, economic well-being and industrial production with appropriate attention to a long-term balance between resource production, energy use, a healthy environment, natural resource conservation, and social needs.” (30 U.S.C. § 1602)

---

<sup>7</sup> Secretarial Order 3359 cites the 1980 Act as statutory authority for the order.

WMC very much appreciates President Trump's and Secretary Zinke's efforts to develop policies to implement the 1980 Act, which previous administrations ignored for over three decades. This administration's policies to respond to the directives in the 1980 Act by could help stimulate domestic mineral exploration and mine development because it sends a clarion signal that once again, the U.S. is open for responsible mineral exploration and development.

EO 13817 and SO 3359 respond to the following directives in the 1980 Act:

- Identify materials needs and assist in the pursuit of measures that would assure the availability of materials critical to commerce, the economy, and national security. (30 U.S.C. § 1602(1));
- Direct that the responsible departments and agencies identify, assist, and make recommendations for carrying out appropriate policies and programs to ensure adequate, stable, and economical materials supplies essential to national security, economic well-being, and industrial production; (30 U.S.C. § 1603(1));
- Support basic and applied research and development to provide for...advanced science and technology for the exploration, discovery, and recovery of nonfuel materials, (30 U.S.C. § 1603(2)(A))
- Assess Federal policies which adversely or positively affect all stages for the materials cycle, from exploration to final product recycling and disposal (30 U.S.C. § 1603(8));
- Promote and encourage private enterprise in the development of economically sound and stable domestic materials industries (30 U.S.C. § 1602(6)); and
- [Make] recommendations for the collection, analysis, and dissemination of information concerning domestic and international long-range materials demand, supply and needs. (30 U.S.C. § 1604(2)).

The directives in EO 13817 will implement the key elements of the 1980 Act and take significant steps to reduce the country's reliance on mineral imports.

It is important to note that both the 1980 Act and EO 13817 seek to reduce the nation's reliance on imported minerals from all countries – not just countries that are or may become hostile to the U.S. The OFR inappropriately excludes imports from friendly countries like Canada from the scope of the problem, stating: "...high net import reliance should not be construed to always pose a potential supply risk. For example, three of the commodities deemed critical or near critical are primarily imported from Canada, a nation that is integrated with the United States defense industrial base." (OFR at 9). This position is inconsistent with the directives in both the 1980 Act and EO 13817 to increase domestic production of minerals in order to reduce the country's reliance on mineral imports from all countries. Neither the 1980 Act nor EO 13817 include special dispensation for mineral imports from our allies – especially for those minerals with which the U.S. is endowed and that could be produced from U.S. mines.

## **VII. Conclusions**

WMC very much appreciates this opportunity to provide comments on the draft critical minerals list and the OFR. We would like to thank the Trump Administration for focusing on the importance of improving

our supply of domestic minerals and reducing the nation's reliance on foreign minerals. WMC believes this Administration's efforts to eliminate the regulatory barriers and permitting delays that stand in the way of the responsible and timely development of domestic mineral deposits will help stimulate investment in America's mineral sector.

Given WMC's longstanding concerns about the country's increasing reliance on imported minerals, we would very much appreciate the opportunity to discuss critical minerals in more detail with USGS and DOI officials during our April 23-26, 2018 Washington, DC Fly-In. We will be contacting you soon to try to schedule meetings on this important matter.

Respectfully submitted:



Barbara Coppola  
WMC President  
[Barbara.Coppola@duke-energy.com](mailto:Barbara.Coppola@duke-energy.com)



Debra W. Struhsacker  
WMC Co-Founder and Director  
(775) 826-3800  
[dstruhsacker@sbcglobal.net](mailto:dstruhsacker@sbcglobal.net)

Attachment: Exhibit I – 1995 and 2016 USGS Net Mineral Import Reliance Charts

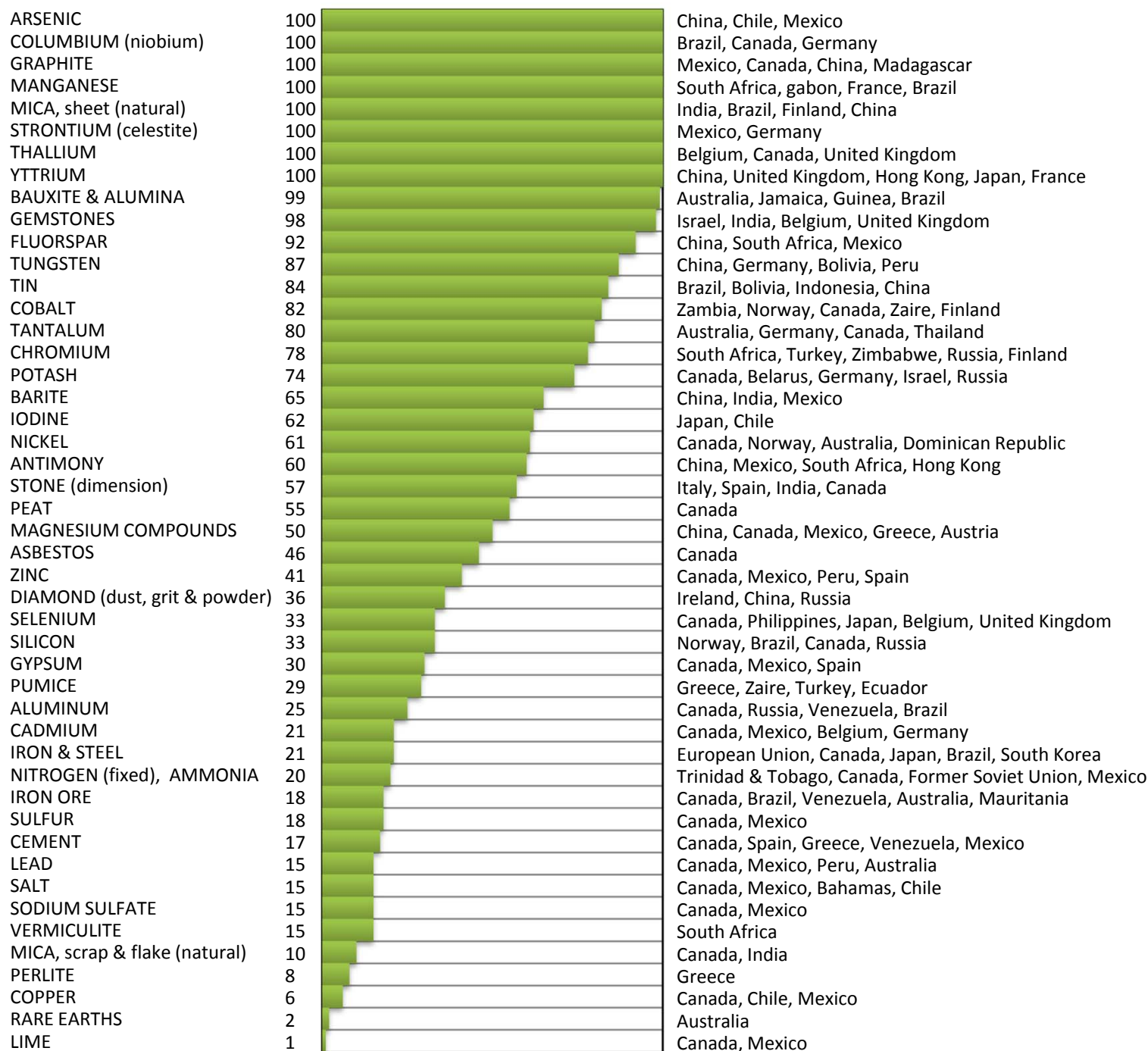
# **EXHIBIT 1**

1995 and 2016 U.S. Net Import Reliance Charts

Sources: 1996 and 2017 USGS Mineral Commodity Surveys



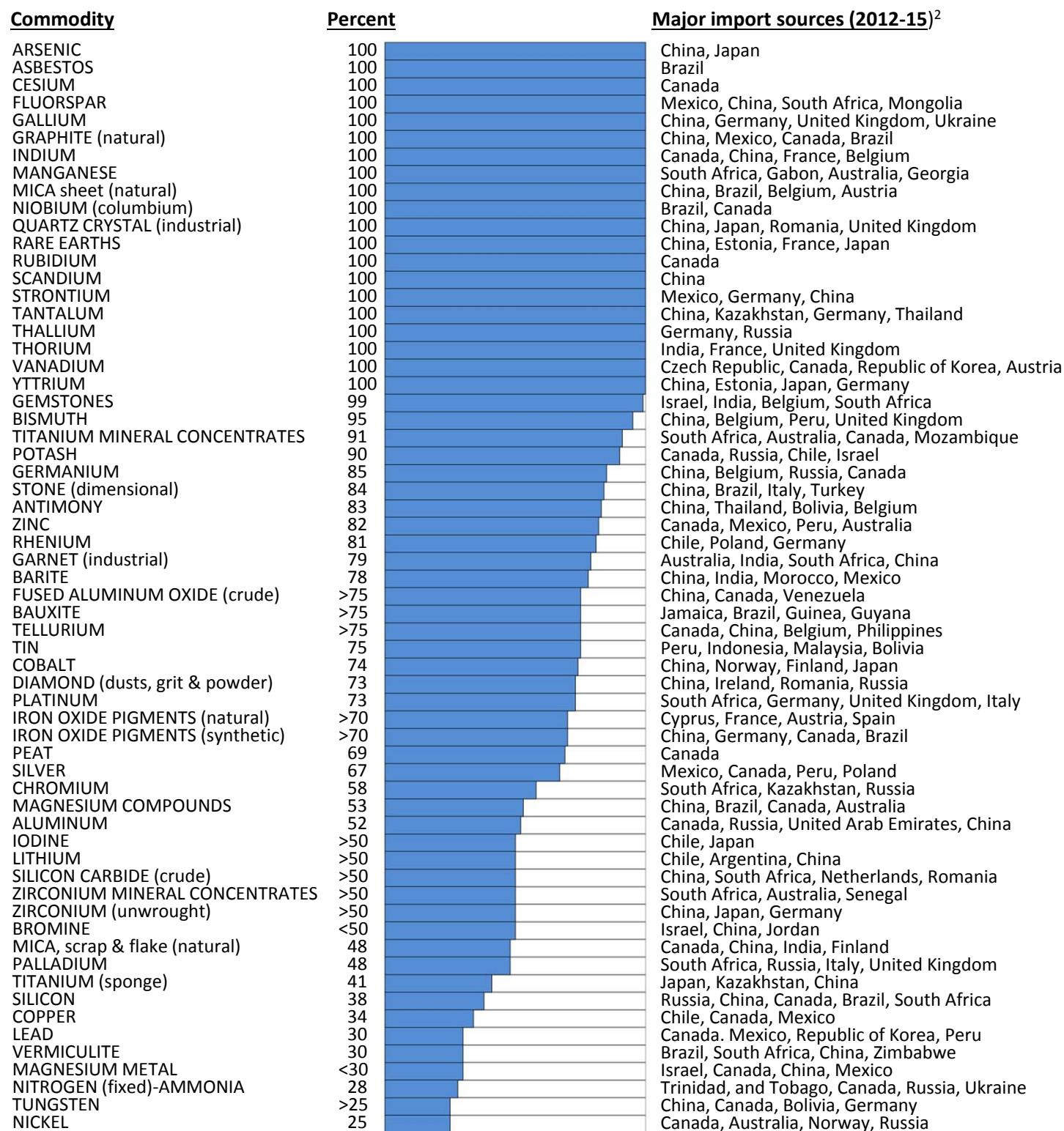
# 1995 U.S. NET IMPORT RELIANCE FOR SELECTED NONFUEL MINERAL MATERIALS



Additional commodities for which there is some import dependency include:

Bismuth	Mexico, Belgium, China, Peru	Platinum	South Africa, United Kingdom, Belgium, Germany
Gallium	France, Germany, Russia, United Kingdom, Hungary	Rhenium	Chile, Germany, United Kingdom, Russia, Kazakhstan
Ilmenite	South Africa, Australia, Canada	Rutile	Australia, Sierra Leone, South Africa
Indium	Canada, France, Italy, Belgium, Russia	Silver	Mexico, Canada, Peru, Chile
Iron & steel slag	Canada, Japan	Thorium	Australia
Kyanite	South Africa, France	Titanium (sponge)	Russia, Japan, China
Mercury	Canada, Russia, Germany	Vanadium	Russia, South Africa, Canada, Mexico
		Zirconium	Australia, South Africa

# 2016 U.S. NET IMPORT RELIANCE<sup>1</sup>



<sup>1</sup>Not all mineral commodities covered in this publication are listed here. Those not shown include mineral commodities for which the United States is a net exporter (alumina; boron; clays; diatomite; helium; iron and steel scrap; iron ore; kyanite; molybdenum; sand and gravel, industrial; selenium; soda ash; titanium dioxide pigment; wollastonite; and zeolites) or less than 25% import reliant (abrasives, metallic, beryllium; cadmium; cement; diamond, industrial stones; feldspar; gypsum; iron and steel; iron and steel slag; lime; perlite; phosphate rock; pumice; sand and gravel, construction; salt; stone, crushed; sulfur and talc). For some mineral commodities (gold, hafnium, and mercury), not enough information is available to calculate the exact percentage of import reliance.

<sup>2</sup>In descending order of import share.

<sup>3</sup>Data include lanthanides

# WESTERN EXPLORATION LLC

March 19, 2018

**Via U.S. Mail, Certified, RRR**

Draft Critical Minerals List  
MS-1621  
The Honorable Ryan Zinke  
Secretary  
Department of the Interior  
1849 C Street NW  
Washington, DC 20240

And online to:

<http://www.regulations.gov>

**Re: Comments regarding of the Preliminary USGS Critical Minerals List  
83 Fed. Reg. 7065 (Feb. 16, 2018)**

Dear Secretary Zinke:

Western Exploration LLC (“WEX”) appreciates the opportunity to submit the following comments to the Department of the Interior (“DOI”) regarding the above-referenced preliminary list of minerals considered “critical” as published by the U.S. Geological Survey (“USGS”) on February 16, 2018 (“Draft List”).

WEX believes that the Draft List should be compiled consistent with the Congressional intent underlying the National Materials and Minerals Policy, Research and Development Act of 1980 (the “1980 Act”), and, to do so, must include gold, silver, and other common minerals on any forthcoming list of minerals designated as being critical to U.S. national security and the economy. The 1980 Act directed the President to prepare a comprehensive plan to, among other things, implement the policy to promote an adequate and stable supply of minerals and materials necessary to maintain national security, economic well-being, and industrial production. One of the primary expectations of the 1980 Act was to help reduce U.S. dependence on foreign sources of critical minerals and materials which includes gold and silver and other common minerals.

## **I. Background**

### **a. WEX**

WEX is a privately-held company that acquired the Doby George and Wood Gulch projects located in northern Elko County, Nevada in 1997. Since 1998, WEX has spent approximately

\$52,700,000 on exploration efforts in the Doby George and Wood Gulch Project areas. Field exploration expenditures at Doby George and Wood Gulch (the “WEX Projects”) during a typical field season generally will range, at a minimum of between \$7,000,000 – 10,000,000.

The WEX projects are among the most promising gold mines in our country and the world. This was recently confirmed in the USGS Mineral Potential report, which gave the WEX Projects the highest rating for mineral potential. The BLM has noted that two “large, well-defined gold resources have been developed through exploration in the past 20 years in Elko County, Nevada” – referencing the two WEX Projects. The BLM has also recognized that the local economy in Elko is primarily based on extensive locatable mineral operations.

The WEX Projects include the following:

- The Doby George Project is an advanced mineral exploration project that covers approximately 2,392 acres (114 claims) in the northern Independence Range on US Forest Service (“USFS”) land in the Aura Mining District.
- The Aura Project is a mineral exploration project that covers approximately 5,015 acres (239 claims) in the northern Independence Range on USFS land in the Aura Mining District.
- The Wood Gulch Project is an advanced mineral exploration project that covers approximately 7,470 acres (356 claims) in the northern Independence Range on USFS land near the old Wood Gulch Mine.
- The Sonoma Range projects, generally south of Winnemucca, include Section 23, Spanish Basin, Barrel Springs, and DCT.

The economic footprint of WEX’s projects is much broader than the immediate vicinity and county in which they are located. Specifically, indirect expenditures in Mountain City, Elko, Winnemucca, and Reno continue to benefit the local economies as services and products are purchased from a wide variety of vendors, consultants, and contractors (*e.g.*, at least nine businesses providing lodging, food, and community amenities in Mountain City and Elko; eight businesses providing drilling and field supply services; nine businesses providing contractor and subcontractor labor; and 18 consultants providing employees and site-specific services). Moreover, exploration conducted by WEX of the Wood Gulch deposit and surrounding area lead to the discovery in 2013 of another, larger gold deposit approximately one mile east of the reclaimed Wood Gulch mine. This new deposit will be an economically significant discovery.

Given its demonstrated interest, WEX is concerned about USGS’s failure to recognize gold, silver, and other common minerals as “critical” in its Draft List. WEX outlines its concerns in these comments.

## **II. The DOI's Draft List of "Critical Minerals" Must Include Silver, Gold, and Other Common Minerals**

WEX submits that the preliminary Draft List, which USGS developed in response to the December 20, 2017, Executive Order ("EO") 13817 entitled "A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals," should be viewed as a "start" rather than a comprehensive list of critical minerals and should be compiled in accordance with the objectives of the 1980 Act. Namely, the Draft List should be revised to encompass gold and silver, along with other minerals widely regarded as "critical" to national security and the U.S. economy in other key documents, and which meet the applicable definition of "critical minerals."

### **a. Gold, Silver, and Other Common Minerals Meet the Definition of "Critical Minerals" Contained in EO 13817 and SO 3359**

As a highly industrialized nation, materials development has been a central factor in the evolution of American society. Fuels, electricity, steel, aluminum, copper, gold, silver, cement, plastics, and fertilizers – all of mineral origin – are the lifeblood of U.S. industry. The 1980 Act recognized the importance of this and required creation of a plan to "promote an adequate and stable supply of materials necessary to maintain national security, economic well-being and industrial production . . . ." The Draft List identifying 35 minerals as "critical" is a narrowly-focused snapshot of a select group of minerals that are a subset of a larger universe of critical and essential minerals, where the language of EO 13817 suggests that it intends to encompass the latter.

EO 13817 defines a "Critical Mineral" as that identified to be:

- (i) a non-fuel mineral or mineral material essential to the economic and national security of the United States, (ii) the supply chain of which is vulnerable to disruption, and (iii) that serves an essential function in the manufacturing of a product, the absence of which would have significant consequences or our economy or our national security.

As the Draft List identifies, "[d]isruptions in supply chains may arise for any number of reasons, including natural disasters, labor strife, trade disputes, resource nationalism, conflict, and so on."

On December 21, 2017, Sec. Zinke issued Secretarial Order ("SO") No. 3359 on critical mineral independence and security. This order implements EO 13817. SO 3359 cites a number of statutory authorities including the 1980 Act, the Mining Law of 1872, and the Mining and Minerals Policy Act of 1970. Both EO 13817 and SO 3359 emphasize economic prosperity/security and minerals essential to the manufacturing of a product necessary for economic or national security.

The 1980 Act that serves as one of the underlying fundamental bases for EO 13817 and SO 3359 requires the Administration to consider a much broader list of minerals than the 23 minerals evaluated in the 2017 USGS report on critical minerals and the 35 minerals in the Draft

List. The scope of the USGS report and the Draft List are improperly narrow compared to the broad mandates in the 1980 Act cited as authority for SO 3359, excluding several minerals that are both vital to the Nation's security and economic prosperity, and essential to product manufacturing.

Examples of minerals that meet the EO 13817 definition of critical mineral and comply with the mandates of EO 13817 and SO 3359 are gold, silver, copper, nickel, zinc, molybdenum, and lead. Pursuant to the first factor in EO 13817's definition, gold is a non-fuel mineral which is undeniably essential to the economic and national security of the United States, and has long been universally recognized as such. In fact, the USGS named gold as the highest "principal contributor" to the total value of metal mine production in 2017, making up 38% of the \$26.3 billion value of U.S. metal mine production in 2017.<sup>1</sup> Second, the gold supply chain is vulnerable to disruption.<sup>2</sup> Third, gold serves an essential function in the manufacturing of many products, the absence of which would have significant consequences on the U.S. economy or security. Gold is an essential component of current and new technologies such as computers, GPS and satellite technologies, medical equipment, and space travel. It is highly-regarded as an industrial catalyst, critical to both U.S. currency and economic stability. Gold clearly meets the definition of a "critical mineral" pursuant to EO 13817, and is highly critical to the Nevada economy in particular.<sup>3</sup>

Silver also meets the definition of a "critical mineral" and should be included in the Draft List. Silver is a non-fuel mineral which is essential to the economic and national security of the United States,<sup>4</sup> and Nevada in particular.<sup>5</sup> Second, the supply chain of silver is vulnerable to

---

<sup>1</sup> USGS, *Mineral Commodity Summaries 2018*, at 7, available at <https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>.

<sup>2</sup> The media has recognized increasing price volatility in commodities including gold in recent years, explaining that this increasing vulnerability in supply chains is due to increasing complexity of the same. See, e.g., *Identifying Vulnerability is Step One to Mitigating Supply Chain Risk*, Susan Avery, My Purchasing Center, available at <http://www.mypurchasingcenter.com/logistics/articles/identifying-vulnerability-step-one-mitigating-supply-chain-risk/>.

<sup>3</sup> The USGS named gold a "principal non-fuel mineral" in Nevada in 2017, ranked first in order of value. USGS, *Mineral Commodity Summaries 2018*, at 11, available at <https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>.

<sup>4</sup> "Silver has so many industrial uses in which it is indispensable or at least difficult to substitute for, that it is essential to the U.S. economy and defense." USGS, *Mineral Commodity Profiles 2014 - Silver*, at 35, available at <https://pubs.usgs.gov/of/2004/1251/2004-1251.pdf>. "In 2017, U.S. mines produced approximately 1,020 tons of silver with an estimated value of \$564 million." USGS, *Mineral Commodity Summaries 2018*, at 150, available at <https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>.

<sup>5</sup> The USGS named silver a "principal non-fuel mineral" in Nevada in 2017, ranked fifth in order of value. USGS, *Mineral Commodity Summaries 2018*, at 11, available at <https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>.

disruption.<sup>6</sup> Third, silver serves many essential functions,<sup>7</sup> including the manufacture of electrical and electronic products as a gold substitute.<sup>8</sup>

Gold and silver also are critical host minerals to a number of other critical minerals that would not be economically developed but for the presence of the gold and silver. A number of the critical minerals on the Draft List do not occur in economically viable mineral deposits. These critical minerals require a host or gateway mineral as the economic driver for exploration development and mining. Without the host or gateway mineral, certain listed minerals will not be produced. For example, copper is the host or gateway to at least four minerals on the Draft List: cobalt, rhenium, tellurium, and potentially the rare earths. Gold is the gateway or host mineral to antimony and arsenic. Zinc is a host or gateway mineral to indium, gallium and germanium. Nickel is host or gateway to cobalt and the platinum group metals. Lead has been found to be the gateway to antimony, bismuth and tellurium.

While WEX's comments focus on gold and silver, we note that other common minerals excluded from the Draft List meet the definition of "critical minerals" pursuant to EO 13817, and should therefore be included in the Draft List. These include "host" or "gateway" minerals, which are critical as the economic driver for exploration development and mining and are greatly important to the economic and national security of the U.S. While in no way comprehensive, the additional critical minerals include: copper,<sup>9</sup> zinc,<sup>10</sup> nickel,<sup>11</sup> and lead.<sup>12</sup> As major economic drivers, silver, gold, copper, lead, zinc, and other minerals are indispensable to our infrastructure

---

<sup>6</sup> Namely, silver is subject to the same commodity price volatility as that of gold.

<sup>7</sup> For example:

In 2017, the estimated domestic uses for silver were electrical and electronics, 36%; coins and medals, 22%; jewelry and silverware, 7%; photography, 5%; and other, 30%. Other applications for silver include use in antimicrobial bandages, clothing, pharmaceuticals, and plastics; batteries; bearings; brazing and soldering; catalytic converters in automobiles; electroplating; inks; mirrors; photovoltaic solar cells; water purification; and wood treatment.

USGS, *Mineral Commodity Summaries 2018*, at 150, available at

<<https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>>. Silver also serves important functions in medicine and as a catalyst for a variety of oxidation, reduction, and polymerization reactions used in large-scale industrial processes. USGS, *Mineral Commodity Profiles 2014 - Silver*, at 23, available at <<https://pubs.usgs.gov/of/2004/1251/2004-1251.pdf>>.

<sup>8</sup> According to the USGS, "[b]ase metals clad with gold alloys are widely used in electrical and electronic products, and in jewelry to economize on gold; many of these products are continually redesigned to maintain high-utility standards with lower gold content. Generally, palladium, platinum, and silver may substitute for gold."

<sup>9</sup> Copper is necessary in the production and delivery of electrical energy, providing clean water and rebuilding America's infrastructure. It also is critical to numerous defense technologies and weapons' platforms. The U.S. currently imports 34% of its copper requirements despite world class deposits.

<sup>10</sup> Zinc is essential to galvanizing other metals like iron to prevent rust in infrastructure like bridges, railroads, buildings and roads. Zinc is essential to making brass and bronze which are critical infrastructure materials. Zinc also is essential to numerous defense technologies and weapons' platforms. The U.S. is 82% import reliant on zinc.

<sup>11</sup> Nickel is essential to making stainless steel. It also is critical to numerous defense technologies and weapons' platforms. The U.S. is 25% import reliant for nickel despite world class undeveloped resources.

<sup>12</sup> Lead is critical and essential for lead acid batteries as well as numerous defense technologies and weapons' platforms. The U.S. is 30% import reliant on lead.



and are essential components of consumer products, military and defense equipment, numerous manufacturing sectors, medical applications and other uses. The availability of minerals – especially minerals with widespread uses in infrastructure, manufacturing, and consumer products – is an issue of national importance because shortages of these minerals would create serious economic disruptions that would have a ripple effect throughout our economy. WEX requests that the DOI consider the criticality of these minerals in reconsidering the USGS Draft List.

**b. The Draft List is Improperly Narrow in Reliance on Inapplicable Definitions of “Critical Minerals”**

WEX submits that the Draft List appears to rely on the incorrect definition of “critical minerals,” yielding an underinclusive list of only 35 minerals. WEX urges that the DOI apply the appropriate definition of the term.

According to the Federal Register Notice accompanying the Draft List, the primary tool used to develop the Draft List was the critical mineral screening methodology developed by the National Science and Technology Council Subcommittee on Critical and Strategic Mineral Supply Chains (“CSMSC”) in 2016 and updated in 2018. While other tools were utilized, the screening criteria tool in the CSMSC applied a different definition than that which is set forth in both EO 13817 and SO 3359.<sup>13</sup> It appears that due to this reliance on the CSMSC definition, many minerals that meet the EO and SO definition of a critical mineral were left off the list.

One of the tools used to compile the Draft List is the annual USGS Import Reliance Chart for nonfuel minerals. Both EO 13817 and SO 3359 focus on the importance of the domestic minerals supply chain and that dependence on foreign sources of minerals creates strategic vulnerability to the U.S. military and industry. There are a number of minerals included on the USGS Net Import Reliance Chart that meet EO 13817’s definition of critical minerals but are not in the Draft List of critical minerals, despite the fact that the excluded minerals are subject to supply disruption. Given the severity of the import dependence problem, coupled with the likelihood that the problem will grow to include other minerals as technological demand increases, as geopolitical upsets occur in the future in risky producing nations, and if the myriad permitting problems continue unabated, the list of imported minerals subject to supply disruption will only grow.

Moreover, WEX notes that the Draft List is clearly much narrower than that which other Federal government organizations have evaluated. For example, the Defense Logistics Agency

---

<sup>13</sup> See *Assessment of Critical Minerals: Screening Methodology and Initial Application*, March 2016, available at <<https://www.whitehouse.gov/sites/whitehouse.gov/files/images/CSMSC%20Assessment%20of%20Critical%20Minerals%20Report%202016-03-16%20FINAL.pdf>>; see also *Assessment of Critical Minerals: Updated Application of Screening Methodology*, February 2018, available at <<https://www.whitehouse.gov/sites/whitehouse.gov/files/images/CSMSC%20Assessment%20of%20Critical%20Minerals%20Report%202016-03-16%20FINAL.pdf>>

looks at more than 170 elements/minerals/materials in its annual evaluation of critical elements/minerals/materials for defense purposes.<sup>14</sup>

WEX urges that the DOI utilize the correct definition, consistent with the 1980 Act – that which is included in EO 13817 and SO 3359 – to include all minerals which meet that definition, including gold and silver as outlined herein.

**c. The Draft List Must be Revised to Conform to the Policy Objectives of the 1980 Act and EO 13817**

The narrow scope of the Draft List is inconsistent with the expressed policy aim in the 1980 Act and EO 13817, and must be revised accordingly.

The 1980 Act set forth a clear policy to promote an adequate and stable supply of minerals and materials necessary to maintain the national security, economic well-being, and industrial production. In furtherance of those statutory objectives, EO 13817 states that it “shall be the policy of the Federal Government to reduce the Nation’s vulnerability to disruptions in the supply of critical minerals, which constitutes a strategic vulnerability for the security and prosperity of the United States.” Consistent with the 1980 Act, EO 13817 further expresses concern about heavy U.S. reliance on imports of certain mineral commodities that creates a strategic vulnerability for the economy and military to supply chain disruptions including adverse foreign government actions, natural disasters, and other events. In an attempt to address these concerns, EO 13817 focuses on the need to increase “private-sector domestic exploration, production, recycling, and reprocessing of critical minerals . . . [to] reduce our dependence on imports, preserve our leadership in technological innovation, support job creation, improve our national security and balance of trade, and enhance the technological superiority and readiness of our Armed Forces . . .”

Consistent with the concerns that resulted in Congress adopting the 1980 Act and concerns identified in EO 13817, the 2018 USGS *Mineral Commodity Summaries* confirms that the U.S. is currently greater than 50 percent reliant upon foreign countries for 30 different metals and minerals – and 100 percent for an additional 21 minerals.<sup>15</sup> Similarly, in a recent report entitled “Critical Mineral Resources of the United States,”<sup>16</sup> USGS emphasized the concern about secure and reliable sources of minerals is real and will worsen if not addressed:

The global demand for mineral commodities is at an all-time high and is expected to continue to increase, and the development of new technologies and products has led to the use of a greater number of minerals commodities in increasing

---

<sup>14</sup> See, e.g., [http://www.dla.mil/Portals/104/Documents/StrategicMaterials/Reports/Operations%20Report/FY16%20Operations%20Report\\_FINAL\\_Website%20Version.pdf](http://www.dla.mil/Portals/104/Documents/StrategicMaterials/Reports/Operations%20Report/FY16%20Operations%20Report_FINAL_Website%20Version.pdf).

<sup>15</sup> USGS, *Mineral Commodity Summaries 2018*, at 7, available at <https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>.

<sup>16</sup> Available at <https://pubs.er.usgs.gov/publication/pp1802>.

quantities to the point that, today, essentially all naturally occurring elements have several significant industrial uses.

This well-documented growing mineral dependency includes gold, silver, and other common minerals. For example, the USGS has recognized growing international markets for gold, and has concluded that “the gold resources in the United States, however, are only a small portion of global gold resources.”<sup>17</sup> Further, while silver mine production decreased nationally and internationally in 2017, countries from which we import silver like Mexico, Canada, Peru, and Poland exceeded the U.S. in terms of production and reserves in recent years.<sup>18</sup> The USGS has predicted that consumption of silver generally is expected to grow, with U.S. consumption projected to grow faster than world consumption.<sup>19</sup>

Further, WEX notes that the Draft List is a snapshot in time. Critical minerals change with economics and circumstances and require an ongoing review. The 1980 Act relied upon in SO 3359 includes very broad directives, charging the executive branch with:

[I]dentify[ing] materials needs and assist in the pursuit measures that would assure the availability of materials critical to commerce, the economy, and national security; . . . provid[ing] for . . . advanced science and technology for the exploration, discovery, and recovery of nonfuel minerals; . . . assess[ing] Federal policies which adversely or positively affect all stages of the material cycle, from exploration to final product recycling and disposal . . .”

The 1980 Act further requires “continuing private sector consultation in Federal materials programs,” which recognizes that critical minerals change with circumstances.

WEX shares the concern expressed in EO 13817 and the corresponding policy objectives. WEX also recognizes the USGS’s Draft List as an important starting point in the direction of achieving those policy objectives. Yet, to adequately fulfill the policy goals intrinsically tied to U.S. national security, infrastructure, and manufacturing needs, the Draft List must be expanded to include gold, silver, and other common minerals that have been improperly excluded. WEX submits that the suggested Draft List expansion also furthers the policy goals as outlined in the 1980 Act by assuring the availability of materials critical to commerce, the economy, and national security.

### **III. Permitting Reforms Must Apply Across-the-Board to All Mineral Commodities**

A critical issue that is interfering with mineral exploration and development in the U.S. is permitting delays. Therefore, WEX urges the DOI to address permitting delays for mineral and

---

<sup>17</sup> USGS, *Mineral Commodity Summaries 2018*, at 71, available at <<https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>>.

<sup>18</sup> USGS, *Mineral Commodity Summaries 2018*, at 151, available at <<https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>>.

<sup>19</sup> USGS, *Mineral Commodity Profiles 2014 - Silver*, at 37, available at <<https://pubs.usgs.gov/of/2004/1251/2004-1251.pdf>>.

metal commodities as a necessary measure to ensure decreased U.S. reliance on foreign imports for critical minerals, consistent with both the 1980 Act and EO 13817.

It is well-known that the U.S. experiences the longest permitting delays in bringing a mine into production. Various studies have estimated delays of 5 to 15 years with the average being 7 to 10 years. By comparison, in Canada and Australia, mines are generally permitted in 2 to 2½ years subject to similar environmental and engineering standards. In a 2014 report entitled *Ranking of Countries for Mining Investment: "Where Not to Invest,"* Behre Dolbear ranked 25 mineral-producing countries for mining investment and found that the U.S. was tied for last place (with Papua New Guinea) in the time it takes to permit a mine for development. The report states:

Permitting delays are the most significant risk to mining projects in the United States. A few mining friendly states (Nevada, Utah, Kentucky, West Virginia, and Arizona) are an exception to this rule but are negatively impacted by federal rules that they are bound to enforce resulting in a seven to ten year waiting period before mine development can begin.<sup>20</sup>

WEX in particular has experienced significant and unnecessary permitting delays, which, in some instances, have lasted several months. As outlined here, the WEX Projects have key economic ramifications in Nevada and beyond, including job creation, tax contribution, and playing a key role in decreasing U.S. reliance on foreign imports for critical minerals. WEX urges in these comments that the DOI address these unnecessary permitting delays, which would further the policy goals outlined in EO 13817 of lessening U.S. import reliance of critical strategic and essential minerals. For example, measures should include streamlining the federal permitting system to reduce America's dependence on foreign sources of not only the minerals included in the Draft List, but, importantly, host or gateway minerals and other minerals essential for economic prosperity, building America's infrastructure, and national defense.

WEX again thanks you for the opportunity to comment on this important issue for our nation and looks forward to continued participation in this and other relevant processes.

**Western Exploration LLC**  
By:   
Name: Darcy E. Marud  
Title: President and CEO

---

<sup>20</sup> Behre Dolbear, *2014 Ranking of Countries for Mining Investment: "Where Not to Invest,"* at 6, available at <<http://www.pfncapital.com/i/pdf/2014RankingofCountriesforMiningInvestment.pdf>>.

# Conversation Contents

**Updated invitation: Nevada Iron Discussion w/Allen Freemyer @ Tue Mar 20, 2018 10am - 10:30am (EDT) (kbenedetto@blm.gov)**

## Attachments:

/3. Updated invitation: Nevada Iron Discussion w/Allen Freemyer @ Tue Mar 20, 2018 10am - 10:30am (EDT) (kbenedetto@blm.gov)/1.1 invite.ics  
/3. Updated invitation: Nevada Iron Discussion w/Allen Freemyer @ Tue Mar 20, 2018 10am - 10:30am (EDT) (kbenedetto@blm.gov)/1.2 invite.ics

## Amanda Long <adlong@blm.gov>

**From:** Amanda Long <adlong@blm.gov>  
**Sent:** Tue Mar 13 2018 15:03:59 GMT-0600 (MDT)  
**To:** kbenedetto@blm.gov, "Windsor@adfpc.com" <windsor@adfpc.com>, katharine\_macgregor@ios.doi.gov  
**CC:** ymackthompson@blm.gov, umassey@blm.gov  
**Subject:** Updated invitation: Nevada Iron Discussion w/Allen Freemyer @ Tue Mar 20, 2018 10am - 10:30am (EDT) (kbenedetto@blm.gov)  
**Attachments:** invite.ics invite.ics

This event has been changed.

### Nevada Iron Discussion w/Allen Freemyer

[more details »](#)

**Changed:** Discussion about Nevada Iron and the expansion within Bravo 20 of the Naval Fallon Air Station.

Please have the guards call Amanda at 202-208-2197 when you arrive.

Hi Amanda,

Thanks so much! Actually, the 20th would be great. Allen is free all morning until about 12:30. If Kathy had some availability that morning too, that would be great. Thank you!

Sincerely,  
Windsor Freemyer

When Tue Mar 20, 2018 10am – 10:30am Eastern Time

Where **Changed:** 1849 C St NW, Rm 6616 \*\*Use E St. Entrance\*\* ([map](#))

Video call [https://hangouts.google.com/hangouts/\\_/doi.gov/katharine-macgr](https://hangouts.google.com/hangouts/_/doi.gov/katharine-macgr)

Calendar kbenedetto@blm.gov

Who

- katharine\_macgregor@ios.doi.gov - organizer
- adlong@blm.gov - creator
- Windsor@adfpc.com
- kbenedetto@blm.gov

- 
- ymackthompson@blm.gov - optional
- umassey@blm.gov - optional

Going? [Yes](#) - [Maybe](#) - [No](#) [more options »](#)

Invitation from [Google Calendar](#)

You are receiving this email at the account kbenedetto@blm.gov because you are subscribed for updated invitations on calendar kbenedetto@blm.gov.

To stop receiving these emails, please log in to <https://www.google.com/calendar/> and change your notification settings for this calendar.

Forwarding this invitation could allow any recipient to modify your RSVP response. [Learn More.](#)

# Conversation Contents

**Invitation: Nevada Iron Discussion w/Allen Freemyer @ Tue Mar 20, 2018 10am - 10:30am (EDT) (kbenedetto@blm.gov)**

## Attachments:

/4. Invitation: Nevada Iron Discussion w/Allen Freemyer @ Tue Mar 20, 2018 10am - 10:30am (EDT) (kbenedetto@blm.gov)/1.1 invite.ics  
/4. Invitation: Nevada Iron Discussion w/Allen Freemyer @ Tue Mar 20, 2018 10am - 10:30am (EDT) (kbenedetto@blm.gov)/1.2 invite.ics

**Katharine MacGregor <katharine\_macgregor@ios.doi.gov>**

---

**From:** Katharine MacGregor <katharine\_macgregor@ios.doi.gov>  
**Sent:** Tue Mar 13 2018 12:00:19 GMT-0600 (MDT)  
**To:** kbenedetto@blm.gov, "Windsor@adfpc.com" <windsor@adfpc.com>  
**CC:** ymackthompson@blm.gov, umassey@blm.gov  
**Subject:** Invitation: Nevada Iron Discussion w/Allen Freemyer @ Tue Mar 20, 2018 10am - 10:30am (EDT) (kbenedetto@blm.gov)  
**Attachments:** invite.ics invite.ics

## Nevada Iron Discussion w/Allen Freemyer

[more details »](#)

Discussion about Nevada Iron and the expansion within Bravo 20 of the Naval Fallon Air Station.

Hi Amanda,

Thanks so much! Actually, the 20th would be great. Allen is free all morning until about 12:30. If Kathy had some availability that morning too, that would be great. Thank you!

Sincerely,  
Windsor Freemyer

When Tue Mar 20, 2018 10am – 10:30am Eastern Time

Where 1849 C St NW, \*\*Use E St. Entrance\*\* ([map](#))

Video call [https://hangouts.google.com/hangouts/\\_/doi.gov/katharine-macgr](https://hangouts.google.com/hangouts/_/doi.gov/katharine-macgr)

Calendar kbenedetto@blm.gov

Who

- katharine\_macgregor@ios.doi.gov - organizer
- adlong@blm.gov - creator
- Windsor@adfpc.com
- kbenedetto@blm.gov
- ymackthompson@blm.gov - optional
- umassey@blm.gov - optional

Going? [Yes](#) - [Maybe](#) - [No](#) [more options »](#)



Invitation from [Google Calendar](#)

You are receiving this email at the account kbenedetto@blm.gov because you are subscribed for invitations on calendar kbenedetto@blm.gov.

To stop receiving these emails, please log in to <https://www.google.com/calendar/> and change your notification settings for this calendar.

Forwarding this invitation could allow any recipient to modify your RSVP response. [Learn More.](#)

# Conversation Contents

Kate's Scheduler

**"Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>**

---

**From:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Sent:** Fri Mar 09 2018 14:04:40 GMT-0700 (MST)  
**To:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Subject:** Kate's Scheduler

Her name is Amanda Long email address: [adlong@blm.gov](mailto:adlong@blm.gov)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Fri Mar 09 2018 14:13:25 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** Re: Kate's Scheduler

Thank you. Have a good weekend.

Allen D. Freemyer  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-744-2409

On Mar 9, 2018, at 4:04 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Her name is Amanda Long email address: [adlong@blm.gov](mailto:adlong@blm.gov)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management

Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**"Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>**

---

**From:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Sent:** Fri Mar 09 2018 16:35:38 GMT-0700 (MST)  
**To:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Subject:** Re: Kate's Scheduler

You probably should have Mike Nedd and Jeff Brune attend as well. KB

On Fri, Mar 9, 2018 at 4:13 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Thank you. Have a good weekend.

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Mar 9, 2018, at 4:04 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Her name is Amanda Long email address: [adlong@blm.gov](mailto:adlong@blm.gov)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**Allen Freemyer** <[allen@adfpc.com](mailto:allen@adfpc.com)>

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Fri Mar 09 2018 16:57:34 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** Re: Kate's Scheduler

Thanks

Allen D. Freemyer  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-744-2409

On Mar 9, 2018, at 6:35 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

You probably should have Mike Nedd and Jeff Brune attend as well. KB

On Fri, Mar 9, 2018 at 4:13 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Thank you. Have a good weekend.

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Mar 9, 2018, at 4:04 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Her name is Amanda Long email address: [adlong@blm.gov](mailto:adlong@blm.gov)

--  
Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--  
Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Tue Mar 13 2018 06:42:33 GMT-0600 (MDT)  
**To:** "Benedetto, Kathleen" <kbenedetto@blm.gov>  
**Subject:** RE: Kate's Scheduler

Kathy,

Can you let me know when you receive the Alton document back from Utah? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:kbenedetto@blm.gov]  
**Sent:** Friday, March 9, 2018 6:36 PM  
**To:** Allen Freemyer  
**Subject:** Re: Kate's Scheduler

You probably should have Mike Nedd and Jeff Brune attend as well. KB

On Fri, Mar 9, 2018 at 4:13 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Thank you. Have a good weekend.

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Mar 9, 2018, at 4:04 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Her name is Amanda Long email address: [adlong@blm.gov](mailto:adlong@blm.gov)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

---

**"Benedetto, Kathleen" <kbenedetto@blm.gov>**

**From:** "Benedetto, Kathleen" <kbenedetto@blm.gov>  
**Sent:** Tue Mar 13 2018 08:51:19 GMT-0600 (MDT)  
**To:** Allen Freemyer <allen@adfpc.com>  
**Subject:** Re: Kate's Scheduler

Yes, i haven't sen it yet. KB

On Tue, Mar 13, 2018 at 8:42 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Can you let me know when you receive the Alton document back from Utah? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Friday, March 9, 2018 6:36 PM

**To:** Allen Freemyer

**Subject:** Re: Kate's Scheduler

You probably should have Mike Nedd and Jeff Brune attend as well. KB

On Fri, Mar 9, 2018 at 4:13 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Thank you. Have a good weekend.

Allen D. Freemyer

[3333 K Street NW, Suite 115](#)

[Washington DC 20007](#)

202-744-2409

On Mar 9, 2018, at 4:04 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Her name is Amanda Long email address: [adlong@blm.gov](mailto:adlong@blm.gov)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

## Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Tue Mar 13 2018 08:54:47 GMT-0600 (MDT)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** RE: Kate's Scheduler

Thank you

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, March 13, 2018 10:51 AM  
**To:** Allen Freemyer  
**Subject:** Re: Kate's Scheduler

Yes, i haven't sen it yet. KB

On Tue, Mar 13, 2018 at 8:42 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Can you let me know when you receive the Alton document back from Utah? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Friday, March 9, 2018 6:36 PM  
**To:** Allen Freemyer  
**Subject:** Re: Kate's Scheduler

You probably should have Mike Nedd and Jeff Brune attend as well. KB

On Fri, Mar 9, 2018 at 4:13 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Thank you. Have a good weekend.

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Mar 9, 2018, at 4:04 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Her name is Amanda Long email address: [adlong@blm.gov](mailto:adlong@blm.gov)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)



Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

# Conversation Contents

## Meeting with Allen Freemyer

### Windsor Freemyer <Windsor@adfpc.com>

---

**From:** Windsor Freemyer <Windsor@adfpc.com>  
**Sent:** Mon Mar 12 2018 06:12:02 GMT-0600 (MDT)  
**To:** "ymackthompson@blm.gov" <ymackthompson@blm.gov>, "kbenedetto@blm.gov" <kbenedetto@blm.gov>, "adlong@blm.gov" <adlong@blm.gov>, "umassey@blm.gov" <umassey@blm.gov>  
**Subject:** Meeting with Allen Freemyer

Good Morning, I am writing to request a meeting for Allen Freemyer with Kathy Benedetto and Kate McGregor to discuss Nevada Iron and the expansion within Bravo 20 of the Naval Fallon Air Station. Would Kathy and Kate have any time available tomorrow, Tuesday March 13 between 10am -2:30pm or Wednesday March 14 between 10am- 3pm? Thanks so much. Windsor Freemyer 202.262.1697 Please note my NEW address of windsor@adfpc.com

### "Long, Amanda" <adlong@blm.gov>

---

**From:** "Long, Amanda" <adlong@blm.gov>  
**Sent:** Mon Mar 12 2018 15:02:05 GMT-0600 (MDT)  
**To:** Windsor Freemyer <Windsor@adfpc.com>  
**CC:** "ymackthompson@blm.gov" <ymackthompson@blm.gov>, "kbenedetto@blm.gov" <kbenedetto@blm.gov>, "umassey@blm.gov" <umassey@blm.gov>  
**Subject:** Re: Meeting with Allen Freemyer

Hello Mr. Freemyer,

Unfortunately, Kate is currently only available this Friday March 12th or Tuesday March 20th of next week. You and Ms. Benedetto are welcomed to proceed with the meeting if you need to meet before then. Let me know, thanks.

[Amanda Long](#)

Executive Assistant

Office of the Assistant Secretary for Land & Minerals Management

Department of Interior - Bureau of Land Management

(202) 208-2197

On Mon, Mar 12, 2018 at 8:12 AM, Windsor Freemyer <[Windsor@adfpc.com](mailto:Windsor@adfpc.com)> wrote:  
Good Morning,

I am writing to request a meeting for Allen Freemyer with Kathy Benedetto and Kate McGregor to discuss Nevada Iron and the expansion within Bravo 20 of the Naval Fallon Air Station. Would Kathy and Kate have any time available tomorrow, Tuesday March 13 between 10am -2:30pm or Wednesday March 14 between 10am- 3pm? Thanks so much.

Windsor Freemyer  
202.262.1697

Please note my NEW address of [windsor@adfpc.com](mailto:windsor@adfpc.com)

## **Windsor Freemyer <Windsor@adfpc.com>**

---

**From:** Windsor Freemyer <Windsor@adfpc.com>  
**Sent:** Mon Mar 12 2018 15:19:58 GMT-0600 (MDT)  
**To:** "Long, Amanda" <adlong@blm.gov>  
"ymackthompson@blm.gov" <ymackthompson@blm.gov>,  
**CC:** "kbenedetto@blm.gov" <kbenedetto@blm.gov>,  
"umassey@blm.gov" <umassey@blm.gov>  
**Subject:** Re: Meeting with Allen Freemyer

Hi Amanda,

Thanks so much! Actually, the 20th would be great. Allen is free all morning until about 12:30. If Kathy had some availability that morning too, that would be great. Thank you!

Sincerely,  
Windsor Freemyer  
202.262.1697

Please note my NEW address of [windsor@adfpc.com](mailto:windsor@adfpc.com)

On Mar 12, 2018, at 5:02 PM, Long, Amanda <[adlong@blm.gov](mailto:adlong@blm.gov)> wrote:

Hello Mr. Freemyer,

Unfortunately, Kate is currently only available this Friday March 12th or Tuesday March 20th of next week. You and Ms. Benedetto are welcomed to proceed with the meeting if you need to meet before then. Let me know, thanks.

[Amanda Long](#)  
Executive Assistant  
Office of the Assistant Secretary for Land & Minerals Management  
Department of Interior - Bureau of Land Management  
(202) 208-2197

On Mon, Mar 12, 2018 at 8:12 AM, Windsor Freemyer <[Windsor@adfpc.com](mailto:Windsor@adfpc.com)> wrote:

Good Morning,

I am writing to request a meeting for Allen Freemyer with Kathy Benedetto and

Kate McGregor to discuss Nevada Iron and the expansion within Bravo 20 of the Naval Fallon Air Station. Would Kathy and Kate have any time available tomorrow, Tuesday March 13 between 10am -2:30pm or Wednesday March 14 between 10am- 3pm? Thanks so much.

Windsor Freemyer  
202.262.1697

Please note my NEW address of [windsor@adfpc.com](mailto:windsor@adfpc.com)

# Conversation Contents

**Canceled event: Ext. Western Exploration and Allen Freemyer @ Tue Apr 10, 2018 11am - 11:30am (EDT) (kbenedetto@blm.gov)**

## Attachments:

/7. Canceled event: Ext. Western Exploration and Allen Freemyer @ Tue Apr 10, 2018 11am - 11:30am (EDT) (kbenedetto@blm.gov)/1.1 invite.ics

/7. Canceled event: Ext. Western Exploration and Allen Freemyer @ Tue Apr 10, 2018 11am - 11:30am (EDT) (kbenedetto@blm.gov)/1.2 invite.ics

**Ursula Massey <umassey@blm.gov>**

---

**From:** Ursula Massey <umassey@blm.gov>  
**Sent:** Thu Mar 08 2018 10:27:32 GMT-0700 (MST)  
**To:** kbenedetto@blm.gov  
**Subject:** Canceled event: Ext. Western Exploration and Allen Freemyer @ Tue Apr 10, 2018 11am - 11:30am (EDT) (kbenedetto@blm.gov)  
**Attachments:** invite.ics invite.ics

This event has been canceled and removed from your calendar.

## Ext. Western Exploration and Allen Freemyer

Attendees include CEO Darcy Marud, Marceau Schlumberger and Allen Freemyer. Discussion regarding sage grouse and Western's large gold discovery.

**When** Tue Apr 10, 2018 11am – 11:30am Eastern Time

**Where** BLM-WO MIB RM5653 Conference Room ([map](#))

**Video call** [https://plus.google.com/hangouts/\\_/doi.gov/ymackthompson](https://plus.google.com/hangouts/_/doi.gov/ymackthompson)

**Calendar** kbenedetto@blm.gov

**Who**

- ymackthompson@blm.gov - organizer, optional
- kbenedetto@blm.gov
- umassey@blm.gov - optional

Invitation from [Google Calendar](#)

You are receiving this email at the account kbenedetto@blm.gov because you are subscribed for cancellations on calendar kbenedetto@blm.gov.

To stop receiving these emails, please log in to <https://www.google.com/calendar/> and change your notification settings for this calendar.

Forwarding this invitation could allow any recipient to modify your RSVP response. [Learn More.](#)

## Conversation Contents

**Canceled: Western Exploration to meet with K. Benedetto**

**Attachments:**

/8. Canceled: Western Exploration to meet with K. Benedetto/1.1 invite.ics

**Windsor Freemyer <Windsor@adfpc.com>**

---

**From:** Windsor Freemyer <Windsor@adfpc.com>  
**Sent:** Thu Mar 08 2018 10:21:29 GMT-0700 (MST)  
**To:** "kbenedetto@blm.gov" <kbenedetto@blm.gov>, "ymackthompson@blm.gov" <ymackthompson@blm.gov>, Allen Freemyer <allen@adfpc.com>, "umassey@blm.gov" <umassey@blm.gov>  
**Subject:** Canceled: Western Exploration to meet with K. Benedetto  
**Attachments:** invite.ics

Attendees include CEO Darcy Marud, Marceau Schlumberger and Allen Freemyer. Discussion regarding sage grouse and Western's large gold discovery.

# Conversation Contents

**Kathy Benedetto and Western Explration**

**Attachments:**

/9. Kathy Benedetto and Western Explration/1.1 invite.ics

**Windsor Freemyer <Windsor@adfpc.com>**

---

**From:** Windsor Freemyer <Windsor@adfpc.com>  
**Sent:** Wed Mar 07 2018 09:23:45 GMT-0700 (MST)  
**To:** Allen Freemyer <allen@adfpc.com>, "kbenedetto@blm.gov" <kbenedetto@blm.gov>, "umassey@blm.gov" <umassey@blm.gov>, "ymackthompson@blm.gov" <ymackthompson@blm.gov>  
**Subject:** Kathy Benedetto and Western Explration  
**Attachments:** invite.ics

Attendees include Western Exploration CEO Darcy Marud, Marceau Schlumberger and Allen Freemyer.



# Conversation Contents

Fwd: Western Exploration and Allen Freemyer

**"Mack-Thompson, Yolando" <ymackthompson@blm.gov>**

---

**From:** "Mack-Thompson, Yolando" <ymackthompson@blm.gov>  
**Sent:** Wed Mar 07 2018 09:14:34 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <kbenedetto@blm.gov>  
**Subject:** Fwd: Western Exploration and Allen Freemyer

Kathy,

I rescheduled it for April 10th at 11am.

----- Forwarded message -----

From: **Windsor Freemyer** <[Windsor@adfpc.com](mailto:Windsor@adfpc.com)>  
Date: Wed, Mar 7, 2018 at 11:01 AM  
Subject: Western Exploration and Allen Freemyer  
To: "[kbenedetto@blm.org](mailto:kbenedetto@blm.org)" <[kbenedetto@blm.org](mailto:kbenedetto@blm.org)>, "[umassey@blm.org](mailto:umassey@blm.org)" <[umassey@blm.org](mailto:umassey@blm.org)>, "[ymackthompson@blm.gov](mailto:ymackthompson@blm.gov)" <[ymackthompson@blm.gov](mailto:ymackthompson@blm.gov)>

Good morning,

My apologies, but the Western Exploration delegation has been forced to change their trip to DC. Regrettably, we need to cancel our meeting with Kathy scheduled for March 13. However, they have re-scheduled their visit for April 10 and 11. Would she have any time available either of those days? Allen Freemyer would join the Western delegation as well.

Thanks so much and again, my apologies for the change in schedule.

Sincerely,  
Windsor Freemyer  
202.262.1697

Please note my NEW address of [windsor@adfpc.com](mailto:windsor@adfpc.com)

--

Thanks,

Yolando Mack-Thompson

Executive Assistant

BLM Director's Office

1849 C Street NW Suite 5662

Washington, DC 20240

202-208-4294 (Direct Line)

202-208-5242 (Fax)

[ymackthompson@blm.gov](mailto:ymackthompson@blm.gov)

# Conversation Contents

**Invitation: HOLD Ext. Western Exploration and Allen Freemyer @ Tue Apr 10, 2018 11am - 11:30am (EDT) (kbenedetto@blm.gov)**

## Attachments:

/11. Invitation: HOLD Ext. Western Exploration and Allen Freemyer @ Tue Apr 10, 2018 11am - 11:30am (EDT) (kbenedetto@blm.gov)/1.1 invite.ics  
/11. Invitation: HOLD Ext. Western Exploration and Allen Freemyer @ Tue Apr 10, 2018 11am - 11:30am (EDT) (kbenedetto@blm.gov)/1.2 invite.ics

## Yolando Mack-Thompson <ymackthompson@blm.gov>

**From:** Yolando Mack-Thompson <ymackthompson@blm.gov>  
**Sent:** Wed Mar 07 2018 09:13:19 GMT-0700 (MST)  
**To:** kbenedetto@blm.gov  
**CC:** umassey@blm.gov  
**Subject:** Invitation: HOLD Ext. Western Exploration and Allen Freemyer @ Tue Apr 10, 2018 11am - 11:30am (EDT) (kbenedetto@blm.gov)  
**Attachments:** invite.ics invite.ics

### HOLD Ext. Western Exploration and Allen Freemyer

[more details »](#)

Attendees include CEO Darcy Marud, Marceau Schlumberger and Allen Freemyer. Discussion regarding sage grouse and Western's large gold discovery.

When Tue Apr 10, 2018 11am – 11:30am Eastern Time

Where BLM-WO MIB RM5653 Conference Room ([map](#))

Video call [https://plus.google.com/hangouts/\\_/doi.gov/ymackthompson](https://plus.google.com/hangouts/_/doi.gov/ymackthompson)

Calendar kbenedetto@blm.gov

Who

- ymackthompson@blm.gov - organizer, optional
- kbenedetto@blm.gov
- umassey@blm.gov - optional

Going? [Yes](#) - [Maybe](#) - [No](#) [more options »](#)

Invitation from [Google Calendar](#)

You are receiving this email at the account kbenedetto@blm.gov because you are subscribed for invitations on calendar kbenedetto@blm.gov.

To stop receiving these emails, please log in to <https://www.google.com/calendar/> and change your notification settings for this calendar.

Forwarding this invitation could allow any recipient to modify your RSVP response. [Learn More.](#)

# Conversation Contents

**Western Exploration to meet with K. Benedetto**

**Attachments:**

/12. Western Exploration to meet with K. Benedetto/1.1 invite.ics

**Windsor Freemyer <Windsor@adfpc.com>**

---

**From:** Windsor Freemyer <Windsor@adfpc.com>  
**Sent:** Tue Feb 27 2018 14:33:47 GMT-0700 (MST)  
**To:** Allen Freemyer <allen@adfpc.com>, "kbenedetto@blm.gov" <kbenedetto@blm.gov>, "umassey@blm.gov" <umassey@blm.gov>, "ymackthompson@blm.gov" <ymackthompson@blm.gov>  
**Subject:** Western Exploration to meet with K. Benedetto  
**Attachments:** invite.ics

Attendees include CEO Darcy Marud, Marceau Schlumberger and Allen Freemyer. Discussion regarding sage grouse and Western's large gold discovery.

# Conversation Contents

## Our Discussion in Reno

### Allen Freemyer <allen@adfpc.com>

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Tue Dec 12 2017 12:24:45 GMT-0700 (MST)  
**To:** "Kathleen Benedetto (kmbenedetto11@gmail.com)" <kmbenedetto11@gmail.com>, "kbenedetto@blm.gov" <kbenedetto@blm.gov>  
**Subject:** Our Discussion in Reno

Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496

### "Benedetto, Kathleen" <kbenedetto@blm.gov>

---

**From:** "Benedetto, Kathleen" <kbenedetto@blm.gov>  
**Sent:** Tue Dec 12 2017 15:55:39 GMT-0700 (MST)  
**To:** Allen Freemyer <allen@adfpc.com>  
**CC:** "Kathleen Benedetto (kmbenedetto11@gmail.com)" <kmbenedetto11@gmail.com>  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates

[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Tue Dec 12 2017 16:07:06 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**CC:** "Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))" <[kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com)>  
**Subject:** Re: Our Discussion in Reno

Thank you

Allen D. Freemyer  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-744-2409

On Dec 12, 2017, at 5:55 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance.  
Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

## Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Tue Jan 02 2018 08:43:46 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** RE: Our Discussion in Reno

Kathy,

Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [<mailto:kbenedetto@blm.gov>]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240



Direct: (202) 208-5934  
Cell: (202) 336-9318

## **"Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>**

---

**From:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Sent:** Tue Jan 02 2018 08:54:18 GMT-0700 (MST)  
**To:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Tue Jan 02 2018 08:55:31 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** RE: Our Discussion in Reno

Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen

**From:** Benedetto, Kathleen [<mailto:kbenedetto@blm.gov>]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [<mailto:kbenedetto@blm.gov>]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--  
Kathleen Benedetto

Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

---

**"Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>**

**From:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Sent:** Tue Jan 02 2018 08:59:29 GMT-0700 (MST)  
**To:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Subject:** Re: Our Discussion in Reno

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
[Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen](#)

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
[Kathy,](#)  
[Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen](#)

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
[Kathy,](#)  
[Great to see you in Reno and thank you for attending and staying for the mining community. It really](#)

does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

---

**Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Wed Jan 03 2018 13:16:54 GMT-0700 (MST)

**To:** "Benedetto, Kathleen" <kbenedetto@blm.gov>  
**Subject:** RE: Our Discussion in Reno

Kathy, I'm sure your day has been hectic. Do you have time for a call this afternoon? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:kbenedetto@blm.gov]  
**Sent:** Tuesday, January 2, 2018 10:59 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen

**From:** Benedetto, Kathleen [mailto:kbenedetto@blm.gov]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:kbenedetto@blm.gov]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,

Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

## **Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Wed Jan 17 2018 07:09:53 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** Re: Our Discussion in Reno

Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Any time works for me. Please call at your convenience. 202-744-2409. Thank you.  
Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance.  
Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318



--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

## **"Benedetto, Kathleen" <kbenedetto@blm.gov>**

---

**From:** "Benedetto, Kathleen" <kbenedetto@blm.gov>  
**Sent:** Wed Jan 17 2018 08:27:33 GMT-0700 (MST)  
**To:** Allen Freemyer <allen@adfpc.com>  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Any time works for me. Please call at your convenience. 202-744-2409. Thank you.  
Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Do you have time for a call today or tomorrow on status of EIS issues? Thank you.  
Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,

Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)

Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

## **Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Wed Jan 17 2018 08:31:57 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** Re: Our Discussion in Reno

Thank you. Is Enefit moving forward?

Allen D. Freemyer  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-744-2409

On Jan 17, 2018, at 10:27 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Any time works for me. Please call at your convenience. 202-744-2409.  
Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS issues?  
Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management

Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--  
Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--  
Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Thu Jan 18 2018 07:32:26 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** RE: Our Discussion in Reno

Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [<mailto:kbenedetto@blm.gov>]  
**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

---

**"Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>**

**From:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Sent:** Thu Jan 18 2018 13:48:01 GMT-0700 (MST)  
**To:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Subject:** Re: Our Discussion in Reno

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer

**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer

[3333 K Street NW, Suite 115](#)

[Washington DC 20007](#)

202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Any time works for me. Please call at your convenience. 202-744-2409. Thank you.  
Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Tuesday, January 2, 2018 10:54 AM

**To:** Allen Freemyer

**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Tuesday, December 12, 2017 5:56 PM

**To:** Allen Freemyer

**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))

**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance.  
Allen

Allen D. Freemyer

Freemyer & Associates

[3333 K Street NW, Suite 115](#)

[Washington DC 20007](#)

[202-293-6496](#)

--



Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB

1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

## **Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Thu Jan 18 2018 14:01:57 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** RE: Our Discussion in Reno

Thank you

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Thursday, January 18, 2018 3:48 PM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management

Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

## **Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Tue Jan 30 2018 07:39:28 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** Re: Our Discussion in Reno

Kathy, I wanted to check on Enefit status. I understand you and Kate have signed off but we have been unable to understand where the document stands in the process and a possible publication date. Thank you. Allen

Allen D. Freemyer  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-744-2409

On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Any time works for me. Please call at your convenience. 202-744-2409.  
Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS issues?  
Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer

Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

## **"Benedetto, Kathleen" <kbenedetto@blm.gov>**

---

**From:** "Benedetto, Kathleen" <kbenedetto@blm.gov>  
**Sent:** Tue Jan 30 2018 07:53:52 GMT-0700 (MST)  
**To:** Allen Freemyer <allen@adfpc.com>  
**Subject:** Re: Our Discussion in Reno

If its cleared ASLM I think it goes to Ex Sec they need about five days to get it through their process before it goes to the federal register. KB

On Tue, Jan 30, 2018 at 9:39 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy, I wanted to check on Enefit status. I understand you and Kate have signed off but we have been unable to understand where the document stands in the process and a possible publication date. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Any time works for me. Please call at your convenience. 202-744-2409.  
Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS issues?  
Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)



[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

## Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Tue Jan 30 2018 08:00:21 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** RE: Our Discussion in Reno

Thank you. Appreciate your help. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 30, 2018 9:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

If its cleared ASLM I think it goes to Ex Sec they need about five days to get it through their process before it goes to the federal register. KB

On Tue, Jan 30, 2018 at 9:39 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy, I wanted to check on Enefit status. I understand you and Kate have signed off but we have been unable to understand where the document stands in the process and a possible publication date. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
[Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen](#)

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
[Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen](#)

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management

Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

## **Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Thu Feb 08 2018 14:42:26 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** RE: Our Discussion in Reno

Kathy,

I am on your schedule for Monday morning to discuss an oil shale RD&D issue. I would also like to seek your help to get our EIS out of the building. Still no word on a publication date and the tracking system shows no progress for the past couple of weeks. Thank you for your time on this. Allen

**From:** Benedetto, Kathleen [<mailto:kbenedetto@blm.gov>]  
**Sent:** Tuesday, January 30, 2018 9:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

If its cleared ASLM I think it goes to Ex Sec they need about five days to get it through their process before it goes to the federal register. KB

On Tue, Jan 30, 2018 at 9:39 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy, I wanted to check on Enefit status. I understand you and Kate have signed off but we have been unable to understand where the document stands in the process and a possible publication date. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [<mailto:kbenedetto@blm.gov>]

**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser

Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

---

**"Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>**

**From:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Sent:** Thu Feb 08 2018 15:48:26 GMT-0700 (MST)  
**To:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Subject:** Re: Our Discussion in Reno

I'll see what I can do. KB

On Thu, Feb 8, 2018 at 4:42 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

I am on your schedule for Monday morning to discuss an oil shale RD&D issue. I would also like to seek your help to get our EIS out of the building. Still no word on a publication date and the tracking system shows no progress for the past couple of weeks. Thank you for your time on this. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 30, 2018 9:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

If its cleared ASLM I think it goes to Ex Sec they need about five days to get it through their process before it goes to the federal register. KB

On Tue, Jan 30, 2018 at 9:39 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy, I wanted to check on Enefit status. I understand you and Kate have signed off but we have been unable to understand where the document stands in the process and a possible publication date. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409



On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Any time works for me. Please call at your convenience. 202-744-2409.  
Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS issues?  
Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a

convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

1849 C Street NW

Washington, DC 20240

Direct: (202) 208-5934

Cell: (202) 336-9318

**Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Thu Feb 08 2018 15:49:16 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** RE: Our Discussion in Reno

Thank you.

**From:** Benedetto, Kathleen [<mailto:kbenedetto@blm.gov>]

**Sent:** Thursday, February 8, 2018 5:48 PM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

I'll see what I can do. KB

On Thu, Feb 8, 2018 at 4:42 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

I am on your schedule for Monday morning to discuss an oil shale RD&D issue. I would also like to seek your help to get our EIS out of the building. Still no word on a publication date and the tracking system shows no progress for the past couple of weeks. Thank you for your time on this. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Tuesday, January 30, 2018 9:54 AM

**To:** Allen Freemyer

**Subject:** Re: Our Discussion in Reno

If its cleared ASLM I think it goes to Ex Sec they need about five days to get it through their process before it goes to the federal register. KB

On Tue, Jan 30, 2018 at 9:39 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy, I wanted to check on Enefit status. I understand you and Kate have signed off but we have been unable to understand where the document stands in the process and a possible publication date. Thank you. Allen

Allen D. Freemyer

[3333 K Street NW, Suite 115](#)

[Washington DC 20007](#)

202-744-2409

On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Wednesday, January 17, 2018 10:28 AM

**To:** Allen Freemyer

**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer

[3333 K Street NW, Suite 115](#)

[Washington DC 20007](#)

202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Thu Feb 15 2018 14:08:09 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** RE: Our Discussion in Reno

Thank you very much for your time and prompt action. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Thursday, February 8, 2018 5:48 PM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

I'll see what I can do. KB

On Thu, Feb 8, 2018 at 4:42 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

I am on your schedule for Monday morning to discuss an oil shale RD&D issue. I would also like to seek your help to get our EIS out of the building. Still no word on a publication date and the tracking system shows no progress for the past couple of weeks. Thank you for your time on this. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 30, 2018 9:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

If its cleared ASLM I think it goes to Ex Sec they need about five days to get it through their process before it goes to the federal register. KB

On Tue, Jan 30, 2018 at 9:39 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy, I wanted to check on Enefit status. I understand you and Kate have signed off but we have been unable to understand where the document stands in the process and a possible publication date. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer



Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Tue Feb 20 2018 11:46:20 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** RE: Our Discussion in Reno

Kathleen,  
Would you have a few minutes to catch up via phone call on Enefit and Alton documents? Thank you.  
Allen

Allen D. Freemyer

Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496

**From:** Benedetto, Kathleen [mailto:kbenedetto@blm.gov]  
**Sent:** Thursday, February 8, 2018 5:48 PM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

I'll see what I can do. KB

On Thu, Feb 8, 2018 at 4:42 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
I am on your schedule for Monday morning to discuss an oil shale RD&D issue. I would also like to seek your help to get our EIS out of the building. Still no word on a publication date and the tracking system shows no progress for the past couple of weeks. Thank you for your time on this. Allen

**From:** Benedetto, Kathleen [mailto:kbenedetto@blm.gov]  
**Sent:** Tuesday, January 30, 2018 9:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

If its cleared ASLM I think it goes to Ex Sec they need about five days to get it through their process before it goes to the federal register. KB

On Tue, Jan 30, 2018 at 9:39 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy, I wanted to check on Enefit status. I understand you and Kate have signed off but we have been unable to understand where the document stands in the process and a possible publication date. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:kbenedetto@blm.gov]  
**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)

[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

---

**"Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>**

**From:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Sent:** Tue Feb 20 2018 17:07:23 GMT-0700 (MST)  
**To:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Subject:** Re: Our Discussion in Reno

let me check in with ED - then I'll call. KB

On Tue, Feb 20, 2018 at 1:46 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathleen,  
Would you have a few minutes to catch up via phone call on Enefit and Alton documents? Thank you. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-293-6496

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Thursday, February 8, 2018 5:48 PM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

I'll see what I can do. KB

On Thu, Feb 8, 2018 at 4:42 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
I am on your schedule for Monday morning to discuss an oil shale RD&D issue. I would also like to seek your help to get our EIS out of the building. Still no word on a publication date and the tracking

system shows no progress for the past couple of weeks. Thank you for your time on this. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 30, 2018 9:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

If its cleared ASLM I think it goes to Ex Sec they need about five days to get it through their process before it goes to the federal register. KB

On Tue, Jan 30, 2018 at 9:39 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy, I wanted to check on Enefit status. I understand you and Kate have signed off but we have been unable to understand where the document stands in the process and a possible publication date. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Any time works for me. Please call at your convenience. 202-744-2409.  
Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS issues?  
Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--  
Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--  
Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--



Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB

[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Tue Feb 20 2018 17:17:21 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** Re: Our Discussion in Reno

Thank you

Allen D. Freemyer  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-744-2409

On Feb 20, 2018, at 7:07 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

let me check in with ED - then I'll call. KB

On Tue, Feb 20, 2018 at 1:46 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathleen,  
Would you have a few minutes to catch up via phone call on Enefit and Alton documents?  
Thank you. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-293-6496

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Thursday, February 8, 2018 5:48 PM  
**To:** Allen Freemyer

**Subject:** Re: Our Discussion in Reno

I'll see what I can do. KB

On Thu, Feb 8, 2018 at 4:42 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,

I am on your schedule for Monday morning to discuss an oil shale RD&D issue. I would also like to seek your help to get our EIS out of the building. Still no word on a publication date and the tracking system shows no progress for the past couple of weeks. Thank you for your time on this. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Tuesday, January 30, 2018 9:54 AM

**To:** Allen Freemyer

**Subject:** Re: Our Discussion in Reno

If its cleared ASLM I think it goes to Ex Sec they need about five days to get it through their process before it goes to the federal register. KB

On Tue, Jan 30, 2018 at 9:39 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy, I wanted to check on Enefit status. I understand you and Kate have signed off but we have been unable to understand where the document stands in the process and a possible publication date. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Wednesday, January 17, 2018 10:28 AM

**To:** Allen Freemyer

**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer

<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Tuesday, January 2, 2018 10:54 AM

**To:** Allen Freemyer

**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer

<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Tuesday, December 12, 2017 5:56 PM

**To:** Allen Freemyer

**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))

**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer

<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference.

Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer

Freemyer & Associates

[3333 K Street NW, Suite 115](#)

[Washington DC 20007](#)

[202-293-6496](#)

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser

Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Wed Feb 21 2018 11:03:40 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** Re: Our Discussion in Reno

Thank you. Whom should I contact about the Enefit document? It left BLM several weeks ago.  
Thank you

Allen D. Freemyer  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-744-2409

On Feb 20, 2018, at 7:07 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

let me check in with ED - then I'll call. KB

On Tue, Feb 20, 2018 at 1:46 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathleen,  
Would you have a few minutes to catch up via phone call on Enefit and Alton documents?  
Thank you. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-293-6496

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Thursday, February 8, 2018 5:48 PM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

I'll see what I can do. KB

On Thu, Feb 8, 2018 at 4:42 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
I am on your schedule for Monday morning to discuss an oil shale RD&D issue. I would also like to seek your help to get our EIS out of the building. Still no word on a publication date and the tracking system shows no progress for the past couple of weeks. Thank you for your time on this. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 30, 2018 9:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

If its cleared ASLM I think it goes to Ex Sec they need about five days to get it through their process before it goes to the federal register. KB

On Tue, Jan 30, 2018 at 9:39 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy, I wanted to check on Enefit status. I understand you and Kate have signed off but we have been unable to understand where the document stands in the process and a possible publication date. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer

[3333 K Street NW, Suite 115](#)

[Washington DC 20007](#)

202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer

<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Tuesday, January 2, 2018 10:54 AM

**To:** Allen Freemyer

**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer

<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Tuesday, December 12, 2017 5:56 PM

**To:** Allen Freemyer

**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))

**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer

<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference.

Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer

Freemyer & Associates

[3333 K Street NW, Suite 115](#)

[Washington DC 20007](#)

[202-293-6496](#)



--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

---

**Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Wed Feb 21 2018 13:48:27 GMT-0700 (MST)

**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** Re: Our Discussion in Reno

We are told tracking system has Enefit doc on Balash's desk since Feb 13th. Let me know what you know. Thank you. Allen

Allen D. Freemyer  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-744-2409

On Feb 20, 2018, at 7:07 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

let me check in with ED - then I'll call. KB

On Tue, Feb 20, 2018 at 1:46 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathleen,  
Would you have a few minutes to catch up via phone call on Enefit and Alton documents?  
Thank you. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-293-6496

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Thursday, February 8, 2018 5:48 PM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

I'll see what I can do. KB

On Thu, Feb 8, 2018 at 4:42 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
I am on your schedule for Monday morning to discuss an oil shale RD&D issue. I would also like to seek your help to get our EIS out of the building. Still no word on a publication date and the tracking system shows no progress for the past couple of weeks. Thank you for your time on this. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 30, 2018 9:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

If its cleared ASLM I think it goes to Ex Sec they need about five days to get it through their process before it goes to the federal register. KB

On Tue, Jan 30, 2018 at 9:39 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy, I wanted to check on Enefit status. I understand you and Kate have signed off but we have been unable to understand where the document stands in the process and a possible publication date. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)

202-744-2409

On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Wednesday, January 17, 2018 10:28 AM

**To:** Allen Freemyer

**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer

[3333 K Street NW, Suite 115](#)

[Washington DC 20007](#)

202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer

<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Tuesday, January 2, 2018 10:54 AM

**To:** Allen Freemyer

**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer

<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Tuesday, December 12, 2017 5:56 PM

**To:** Allen Freemyer

**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))

**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer  
<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**"Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>**

---

**From:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Sent:** Wed Feb 21 2018 14:26:56 GMT-0700 (MST)  
**To:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Subject:** Re: Our Discussion in Reno

I'll ask Casey to birddog

On Wed, Feb 21, 2018 at 3:48 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

We are told tracking system has Enefit doc on Balash's desk since Feb 13th. Let me know what you know. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Feb 20, 2018, at 7:07 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

let me check in with ED - then I'll call. KB

On Tue, Feb 20, 2018 at 1:46 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathleen,  
Would you have a few minutes to catch up via phone call on Enefit and Alton documents? Thank you. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-293-6496

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Thursday, February 8, 2018 5:48 PM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

I'll see what I can do. KB

On Thu, Feb 8, 2018 at 4:42 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
I am on your schedule for Monday morning to discuss an oil shale RD&D issue. I would

also like to seek your help to get our EIS out of the building. Still no word on a publication date and the tracking system shows no progress for the past couple of weeks. Thank you for your time on this. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 30, 2018 9:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

If its cleared ASLM I think it goes to Ex Sec they need about five days to get it through their process before it goes to the federal register. KB

On Tue, Jan 30, 2018 at 9:39 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy, I wanted to check on Enefit status. I understand you and Kate have signed off but we have been unable to understand where the document stands in the process and a possible publication date. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]



**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer  
<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS  
issues? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer  
<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending and  
staying for the mining community. It really does make a  
difference. Would you have a few minutes to discuss further  
the EIS document issue we discussed and perhaps include  
counsel to discuss a path forward? Thank you and let me know  
a convenient time. I appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Wed Feb 21 2018 14:27:47 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** Re: Our Discussion in Reno

Thank you

Allen D. Freemyer  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-744-2409

On Feb 21, 2018, at 4:27 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

I'll ask Casey to birddog

On Wed, Feb 21, 2018 at 3:48 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

We are told tracking system has Enefit doc on Balash's desk since Feb 13th. Let me know what you know. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Feb 20, 2018, at 7:07 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

let me check in with ED - then I'll call. KB

On Tue, Feb 20, 2018 at 1:46 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathleen,  
Would you have a few minutes to catch up via phone call on Enefit and Alton documents? Thank you. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-293-6496

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Thursday, February 8, 2018 5:48 PM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

I'll see what I can do. KB

On Thu, Feb 8, 2018 at 4:42 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
I am on your schedule for Monday morning to discuss an oil shale RD&D issue. I would also like to seek your help to get our EIS out of the building. Still no word on a publication date and the tracking system shows no progress for the past couple of weeks. Thank you for your time on this. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 30, 2018 9:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

If its cleared ASLM I think it goes to Ex Sec they need about five days to get it through their process before it goes to the federal register. KB

On Tue, Jan 30, 2018 at 9:39 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>

wrote:

Kathy, I wanted to check on Enefit status. I understand you and Kate have signed off but we have been unable to understand where the document stands in the process and a possible publication date. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer  
<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer  
<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen  
<[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer  
<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen

**From:** Benedetto, Kathleen  
[mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer

<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen

[mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]

**Sent:** Tuesday, December 12, 2017 5:56 PM

**To:** Allen Freemyer

**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))

**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer

<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,

Great to see you in Reno and thank you for

attending and staying for the mining community.

It really does make a difference. Would you have

a few minutes to discuss further the EIS document

issue we discussed and perhaps include counsel to

discuss a path forward? Thank you and let me

know a convenient time. I appreciate your

assistance. Allen

Allen D. Freemyer

Freemyer & Associates

[3333 K Street NW, Suite 115](#)

[Washington DC 20007](#)

[202-293-6496](#)

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto

Senior Adviser

Bureau of Land Management

Room 5648, MIB

[1849 C Street NW](#)

[Washington, DC 20240](#)

Direct: (202) 208-5934

Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--  
Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--  
Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

---

**"Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>**

**From:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Sent:** Wed Feb 21 2018 16:06:14 GMT-0700 (MST)  
**To:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Subject:** Re: Our Discussion in Reno

They had already flagged it for him. KB

On Wed, Feb 21, 2018 at 4:27 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Thank you

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409



On Feb 21, 2018, at 4:27 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

I'll ask Casey to birddog

On Wed, Feb 21, 2018 at 3:48 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
We are told tracking system has Enefit doc on Balash's desk since Feb 13th.  
Let me know what you know. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Feb 20, 2018, at 7:07 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

let me check in with ED - then I'll call. KB

On Tue, Feb 20, 2018 at 1:46 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathleen,  
Would you have a few minutes to catch up via phone call on Enefit and Alton documents? Thank you. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-293-6496

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Thursday, February 8, 2018 5:48 PM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

I'll see what I can do. KB

On Thu, Feb 8, 2018 at 4:42 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Kathy,  
I am on your schedule for Monday morning to discuss an oil shale RD&D issue. I would also like to seek your help to get our EIS out of the building. Still no word on a publication date and the tracking system shows no progress for the past couple of weeks. Thank you for your time on this. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 30, 2018 9:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

If its cleared ASLM I think it goes to Ex Sec they need about five days to get it through their process before it goes to the federal register. KB

On Tue, Jan 30, 2018 at 9:39 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>

wrote:

Kathy, I wanted to check on Enefit status. I understand you and Kate have signed off but we have been unable to understand where the document stands in the process and a possible publication date. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen  
<[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer  
<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer  
<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Wanted to check back on our discussions. Do you have any updates or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen  
<[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Any time works for me. Please call at your convenience. 202-744-2409. Thank you. Allen

**From:** Benedetto, Kathleen  
[mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen  
[mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto  
([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending and staying for the mining community. It really does make a difference. Would you have a few minutes to discuss further the EIS document issue we discussed and perhaps include counsel to discuss a path forward? Thank you and let me know a convenient time. I appreciate your assistance.  
Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)

Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934  
Cell: (202) 336-9318

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Wed Feb 21 2018 16:06:48 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
**Subject:** RE: Our Discussion in Reno

Thank you very much.

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Wednesday, February 21, 2018 6:06 PM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

They had already flagged it for him. KB

On Wed, Feb 21, 2018 at 4:27 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Thank you

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Feb 21, 2018, at 4:27 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

I'll ask Casey to birddog

On Wed, Feb 21, 2018 at 3:48 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
We are told tracking system has Enefit doc on Balash's desk since Feb 13th. Let me know what you know. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Feb 20, 2018, at 7:07 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

let me check in with ED - then I'll call. KB

On Tue, Feb 20, 2018 at 1:46 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathleen,  
Would you have a few minutes to catch up via phone call on Enefit and Alton documents? Thank you. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-293-6496

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Thursday, February 8, 2018 5:48 PM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

I'll see what I can do. KB

On Thu, Feb 8, 2018 at 4:42 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
I am on your schedule for Monday morning to discuss an oil shale RD&D issue.  
I would also like to seek your help to get our EIS out of the building. Still no  
word on a publication date and the tracking system shows no progress for the  
past couple of weeks. Thank you for your time on this. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 30, 2018 9:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

If its cleared ASLM I think it goes to Ex Sec they need about five days to get it  
through their process before it goes to the federal register. KB

On Tue, Jan 30, 2018 at 9:39 AM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy, I wanted to check on Enefit status. I understand you and Kate have signed  
off but we have been unable to understand where the document stands in the  
process and a possible publication date. Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 18, 2018, at 3:48 PM, Benedetto, Kathleen <[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)>  
wrote:

Enifits just came to my inbox

On Thu, Jan 18, 2018 at 9:32 AM, Allen Freemyer  
<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Wednesday, January 17, 2018 10:28 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

My call on Alton Coal was moved from last week to later today. KB

On Wed, Jan 17, 2018 at 9:09 AM, Allen Freemyer  
<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Wanted to check back on our discussions. Do you have any updates  
or a couple of minutes for a call today? Thank you. Allen

Allen D. Freemyer  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
202-744-2409

On Jan 2, 2018, at 11:00 AM, Benedetto, Kathleen  
<[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)> wrote:

okay

On Tue, Jan 2, 2018 at 10:55 AM, Allen Freemyer  
<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Any time works for me. Please call at your  
convenience. 202-744-2409. Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, January 2, 2018 10:54 AM  
**To:** Allen Freemyer  
**Subject:** Re: Our Discussion in Reno

tomorrow morning should work. KB

On Tue, Jan 2, 2018 at 10:43 AM, Allen Freemyer  
<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Do you have time for a call today or tomorrow on status  
of EIS issues? Thank you. Allen

**From:** Benedetto, Kathleen [mailto:[kbenedetto@blm.gov](mailto:kbenedetto@blm.gov)]  
**Sent:** Tuesday, December 12, 2017 5:56 PM  
**To:** Allen Freemyer  
**Cc:** Kathleen Benedetto ([kmbenedetto11@gmail.com](mailto:kmbenedetto11@gmail.com))  
**Subject:** Re: Our Discussion in Reno

Let me see what i can find out tomorrow. KB

On Tue, Dec 12, 2017 at 2:24 PM, Allen Freemyer  
<[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:  
Kathy,  
Great to see you in Reno and thank you for attending  
and staying for the mining community. It really does  
make a difference. Would you have a few minutes to  
discuss further the EIS document issue we discussed  
and perhaps include counsel to discuss a path forward?  
Thank you and let me know a convenient time. I  
appreciate your assistance. Allen

Allen D. Freemyer  
Freemyer & Associates  
[3333 K Street NW, Suite 115](#)  
[Washington DC 20007](#)  
[202-293-6496](#)

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318



--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management

Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
[1849 C Street NW](#)  
[Washington, DC 20240](#)  
Direct: (202) 208-5934  
Cell: (202) 336-9318

--

Kathleen Benedetto  
Senior Adviser  
Bureau of Land Management  
Room 5648, MIB  
1849 C Street NW  
Washington, DC 20240  
Direct: (202) 208-5934

Cell: (202) 336-9318

# Conversation Contents

**AltonEIS\_2018\_2\_21\_BiweeklyMtgAgenda.docx**

**Attachments:**

/14. AltonEIS\_2018\_2\_21\_BiweeklyMtgAgenda.docx/1.1

AltonEIS\_2018\_2\_21\_BiweeklyMtgAgenda.docx

/14. AltonEIS\_2018\_2\_21\_BiweeklyMtgAgenda.docx/1.2 ATT00001.txt

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Wed Feb 21 2018 11:21:10 GMT-0700 (MST)  
**To:** "kbenedetto@blm.gov" <kbenedetto@blm.gov>  
**Subject:** AltonEIS\_2018\_2\_21\_BiweeklyMtgAgenda.docx  
**Attachments:** AltonEIS\_2018\_2\_21\_BiweeklyMtgAgenda.docx ATT00001.txt

This is the status from the state on Alton.

## **Alton Coal Tract LBA EIS – Biweekly meeting AGENDA**

**Meeting Date: 2/21/18**

1. Path forward on FEIS
  - The DOI solicitors are currently reviewing revised text for the FEIS. Once the solicitors' review is complete, and if there are no further suggested revisions, the FEIS will be finalized and made ready for publication.
2. Other topics
3. **The next call is scheduled for Wednesday 3/7/18.**
4. Review action items from today's call

# Conversation Contents

**Rd & D oil shale leases in the Uinta Basin**

**Attachments:**

/15. Rd & D oil shale leases in the Uinta Basin/1.1 invite.ics

/15. Rd & D oil shale leases in the Uinta Basin/2.1 invite.ics

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Mon Feb 05 2018 10:55:15 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <kbenedetto@blm.gov>,  
"umassey@blm.org" <umassey@blm.org>,  
"ymackthompson@blm.gov" <ymackthompson@blm.gov>  
**Subject:** Rd & D oil shale leases in the Uinta Basin  
**Attachments:** invite.ics

## Conversation Contents

**Canceled: Rd & D oil shale leases in the Uinta Basin**

**Attachments:**

/16. Canceled: Rd & D oil shale leases in the Uinta Basin/1.1 invite.ics

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Mon Feb 05 2018 10:56:51 GMT-0700 (MST)  
**To:** "Benedetto, Kathleen" <kbenedetto@blm.gov>,  
"umassey@blm.org" <umassey@blm.org>,  
"ymackthompson@blm.gov" <ymackthompson@blm.gov>  
**Subject:** Canceled: Rd & D oil shale leases in the Uinta Basin  
**Attachments:** invite.ics



# Conversation Contents

## Oil Shale Issues

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Mon Feb 05 2018 09:20:54 GMT-0700 (MST)  
**To:** Kathy Benedetto <kbenedetto@blm.gov>  
**Subject:** Oil Shale Issues

Kathy,  
I would like to sit down with you to discuss some oil shale issues in the Uinta Basin regarding the RD&D lease program. My office will reach out to your scheduler to find a time. Thank you and just wanted to give you a heads up. Allen.

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496





# Conversation Contents

Alton Coal

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Mon Oct 30 2017 10:05:24 GMT-0600 (MDT)  
**To:** Kathy Benedetto <kbenedetto@blm.gov>, "bsteed@blm.gov" <bsteed@blm.gov>  
**Subject:** Alton Coal

Kathy and Brian,

Thank you for your time on Alton Coal as we try to finalize our EIS process. As a follow-up, could we schedule a conference call with the two of you and the Solicitor's office with Alton's counsel to discuss the best approach on how to deal with greenhouse gas emissions at the IPP Coal plant? We will do our best to make ourselves available at your convenience. Thank you. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496

# Conversation Contents

## Wild Horse Proposal

### Attachments:

/19. Wild Horse Proposal/1.1 BLM Proposal 10-19 DOI FINAL.pdf

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Mon Oct 23 2017 08:52:58 GMT-0600 (MDT)  
**To:** Kathy Benedetto <kbenedetto@blm.gov>  
**Subject:** Wild Horse Proposal  
**Attachments:** BLM Proposal 10-19 DOI FINAL.pdf

Kathy, Good to see you on Friday and thank you for your time. Please find attached a joint proposal from HSUS, ASPCA, Return to Freedom (RTF), and AMF outlining our shared beliefs on how to bring wild horse and burro populations back to AML.

Key points in our proposal:

- Conduct targeted gathers and removals at densely populated Herd Management Areas (HMAs) to reduce herd size in the short term.
- Relocate horses in holding facilities and those taken off the range to large, cost-effective pasture facilities funded through public-private partnerships.
- Promote adoptions in order to reduce captive populations and costs.
- Implement an aggressive fertility control program.

I look forward to discussing our proposal with you at your earliest convenience.

Regards,  
Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496

# 10 YEARS TO AML: A PROPOSAL FOR BLM'S WILD HORSE AND BURRO PROGRAM



2017

## Saving Money and Lives: the Way Forward for America's Wild Horses and Burros

The primary objective of this proposal is to develop an economically viable, humane, and feasible long-term management plan for wild horses and burros in the American West. This program has been mismanaged and it needs a reboot. While some of these aspects will continue to be controversial in equine and animal protection communities, we are committed to solutions to this significant crisis. We propose the following solutions for the short and long-term health of our wild horses and our western rangeland: (1) Bring horses into more cost-effective pasture facilities, (2) Contract with private parties to secure lower-cost leasing of land for long-term horse care, (3) Apply fertility control strategies to every herd that can be reached utilizing trained volunteers and Agency staff, and (4) Promote adoptions in order to reduce captive populations and costs. If the BLM can work with private partners to bring each of these goals to life, the agency will be back on a financially sustainable and more humane management track.

# Executive Summary

Wild horses and burros are “living symbols of the historic and pioneer spirit of the west,”<sup>1</sup> and an integral part of American cultural heritage. Management of these federally protected herds is no easy task, but one that Americans overwhelmingly support and that the Bureau of Land Management (BLM) is required by law to perform. The BLM’s attempts to curb population growth, mainly through roundups and removals have not sufficiently slowed the growth of wild horse and burro populations on the range. Concerns about the cost of the Wild Horse and Burro Program have prompted some to recommend the use of inhumane and ultimately futile lethal population control methods. These methods are not only ineffective – on-range horses will continue to reproduce, locking the BLM into a cycle of annual mass killings– they are also expensive, unnecessary, and extremely unpopular.

We propose a solution that will release the BLM from the costly cycle of roundups and holdings, while reducing the number of horses on the range to a level closer to the agency determined appropriate management level (AML):

- Conduct targeted gathers and removals at densely populated Herd Management Areas (HMAs) to reduce herd size in the short term.
- Treat gathered horses with fertility control prior to being returned to the range. This program should continue until 90 percent of mares on the range have been treated and the implementation of continued consistent fertility control.
- Relocate horses in holding facilities, and those taken off the range, to large cost-effective pasture facilities funded through public-private partnerships.
- Promote adoptions in order to reduce captive populations and costs.

The four tiers of this approach – gathers and removals, fertility treatment, public-private partnerships, and adoptions – are crucial to the ultimate success of the program. Failure to effectively implement any part of this program jeopardizes the success of a holistic and sustainable wild horse and burro program. If employed correctly, this plan will result in a natural population decline over the next two decades. We collectively support this humane, effective, and financially sustainable approach.

Nearly all stakeholders share common goals for rangelands: ecosystem health, the humane treatment of animals, and fiscal responsibility. With this plan, horses will be managed humanely, the government’s costs will decrease over time, and public lands shared with other users will be managed closer to AML goals. We have an opportunity, and an obligation, to solve this challenge collectively through a rational, judicious plan that embodies each of these shared goals. Now is the time to act.

---

<sup>1</sup> 1971 Wild Free-Roaming Horses and Burros Act, 16 U.S.C. §1331.

---

# 10 Years to AML: A proposal for BLM's Wild Horse and Burro Program

## SAVING MONEY AND LIVES: THE WAY FORWARD FOR AMERICA'S WILD HORSES AND BURROS

### THE PROBLEM

---

*The Bureau of Land Management (BLM) has been unable to create an effective, financially sustainable framework to manage wild horses and burros, now some 40 years after the enactment of the Wild and Free-Roaming Horses and Burros Act. The agency has not taken advantage of the range of tools it's had at its disposal, and relied too narrowly on the unsustainable process of gathers and removals. That has created a circumstance where horses are reproducing on the range at maximum rates; this has saddled the agency with enormous animal care responsibilities at short-term and long-term holding facilities.*

- Until recently, when budget constraints prevented nearly all management of wild horses on the range, the BLM controlled populations by rounding up specific herds every 2–4 years and removing large numbers of animals to attain AMLs. These removals resulted in a large population of horses under the BLM's direct care. The BLM developed two types of holding facilities to maintain these horses — contracted pastures that cost \$1.82–\$2.42 per horse per day, and short-term corral facilities (i.e. feedlots) that cost \$4–\$7 per horse per day. This excludes costs for round-ups. The BLM currently maintains 32,146 wild horses in large pasture facilities, and 11,902 horses in corral facilities. Corral facilities are a less humane, more expensive form of holding.
- According to the National Academy of Sciences, removal of excess horses can actually facilitate a higher growth rate in wild herds due to decreased competition for forage. This means that the BLM's current management techniques are likely increasing population growth rates. Equine herds typically grow approximately 15%–20% per year, but studies have shown that growth rates are higher in herds where removals have been conducted.<sup>2</sup>
- Had the BLM coupled these removals with a sufficient on-range fertility control program, recruitment rates would be far lower. Between 2012 and 2016, the BLM treated fewer than 3,000 horses with fertility control, and released many gathered horses back onto the range without fertility control treatment. (See addendum).

---

<sup>2</sup> National Research Council of the National Academies of Sciences. 2013. "Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward." Page 6. ("NAS").

---

- The BLM currently estimates the population of wild horses and burros on federal lands at over 72,674 — almost three times greater than the agency’s nationwide AML goal of 26,715.<sup>3</sup>
- The failure of this management strategy has prompted some to suggest using lethal techniques, such as killing healthy wild horses and burros or selling them for the purpose of commercial slaughter. However, this will not solve the problem because removals for any purpose, whether for placement into holding facilities or to be killed, will simply perpetuate a longstanding problem as lethal management will not fix the population growth rates on the range. Additionally, there are substantial ongoing costs and regulatory issues associated with removing, killing, and disposing of horses, which means this method locks the government into an ongoing financial commitment to continue removing and killing horses.
- Mismanagement has led to negative impacts to the long-term health of rangeland ecosystems,<sup>4</sup> raising serious concerns with maintaining the status quo management practices for both private livestock grazing and wild horses and burros. Controversy over the allocation of water and forage has polarized stakeholders, compromising our ability to find common ground solutions.

## THE SOLUTION

---

*While there is continuing debate about what constitutes sustainable wild horse and burro populations on the range, the BLM is under pressure to maintain populations at currently established national AML. Those levels can only be reached by large-scale live removals and fertility control. Removals should only be conducted under the following conditions: (1) Removals must focus on those areas of most immediate concern due to potential conflicts with native wildlife, rangeland degradation, and human-horse conflict; (2) fertility control must be implemented wherever feasible; (3) horses removed from the range must be relocated into less expensive holding facilities, and where possible, public-private partnerships with landowners and non-profits must be pursued; and (4) better marketing can increase adoptions and reduce captive populations and costs.*

### I. REMOVALS

Assuming an 18% population growth rate absent removals, rangeland populations will exceed 84,000 by 2019. While removals to achieve AML are a financial burden, the BLM has determined that they should be conducted to alleviate existing concerns with the condition of BLM’s rangelands. To reach the BLM’s assigned nationwide AML, the BLM should implement a plan to round-up and remove 50,000 horses — a number that would significantly reduce the population burden on rangelands while fertility control tools are simultaneously implemented to stabilize populations on the range. Below are two removal scenarios that the BLM may pursue, depending on resources and pasture facility availability.

---

<sup>3</sup> Two key findings of the NAS Report should be noted here: (1) “...the statistics on the national population size cannot be considered scientifically rigorous,” and (2) “How AML’s are established, monitored, and adjusted is not transparent to stakeholders, supported by scientific information, or amendable to adaptation with new information and environmental and social change. Ibid, pg 3 and pg 12.

<sup>4</sup> The recent GAO report noted that no studies have been conducted separating out the impacts to rangelands from wild horses and cattle, US Government Accountability Office Report, Animal Welfare: 2017 “Information on the US Horse.” Page 32.

---

#### **Option 1: Potential Three Year Removal Goals**

2019 : 20,000 horses removed from the range  
2020 : 20,000 horses removed from the range  
2021 : 10,000 horses removed from the range

#### **Option 2: Potential Five Year Removal Goals**

2019 : 10,000 horses removed from the range  
2020 : 10,000 horses removed from the range  
2021 : 10,000 horses removed from the range  
2022 : 10,000 horses removed from the range\_  
2023 : 10,000 horses removed from the range

Some areas cause heightened concerns due to rangeland degradation, and direct political conflict with the BLM's multiple-use mandate. With that in mind, we suggest that the agency prioritize those areas for immediate attention.

The BLM could begin removals in 2019 focused on those areas, gradually shifting focus in subsequent years to removals in all HMAs where equid populations exceed the AML. At the end of 2021 or 2023, the combination of large-scale removals and the implementation of fertility control (as discussed below) would eliminate the necessity of future large-scale gathers for removal purposes. If necessary, smaller targeted gathers could be conducted to maintain population levels in strategic locations. Removed horses would be relocated to pasture facilities or contracted sanctuaries (as discussed below).

## **II. FERTILITY CONTROL**

***All future removals must be coordinated with ongoing, on-range fertility control programs to prevent subsequent population growth within the remaining equid population.***

We recommend a large-scale fertility control program which ensures that over 90% of the horses remaining on public lands are treated with fertility control, and are sufficiently retreated in later years in order to prevent the need for future large scale removals.

- To achieve this goal, the agency must regularly treat a significant portion (>90%) of the remaining mares in every HMA. For HMAs using helicopter gathers, the agency must commit to coupling the removal of the previously noted 50,000 horses with detailed gather plans that target a high percentage of the area's population. The agency must then treat all mares

returned to the range with PZP, and continue to treat mares in the HMA in successive years to ensure that a sufficient number of mares (>90%) remain treated.<sup>5</sup>

- In areas where baiting is possible, BLM staff must administer treatment through opportunistic darting. If that is not possible in all locations, gathers without removals in subsequent years must take place to ensure repeated treatments.
- Trained and approved volunteers and university programs can be utilized to aid with darting programs, herd identification, behavioral observation, and data collection as the BLM needs.
- Students and volunteer organizations can also be used to support water and habitat restoration on the range.
- The BLM should pursue further research into on-range fertility control, and incorporate results into long term management plans.

#### FERTILITY TREATMENT POPULATION PROJECTIONS:<sup>6</sup>

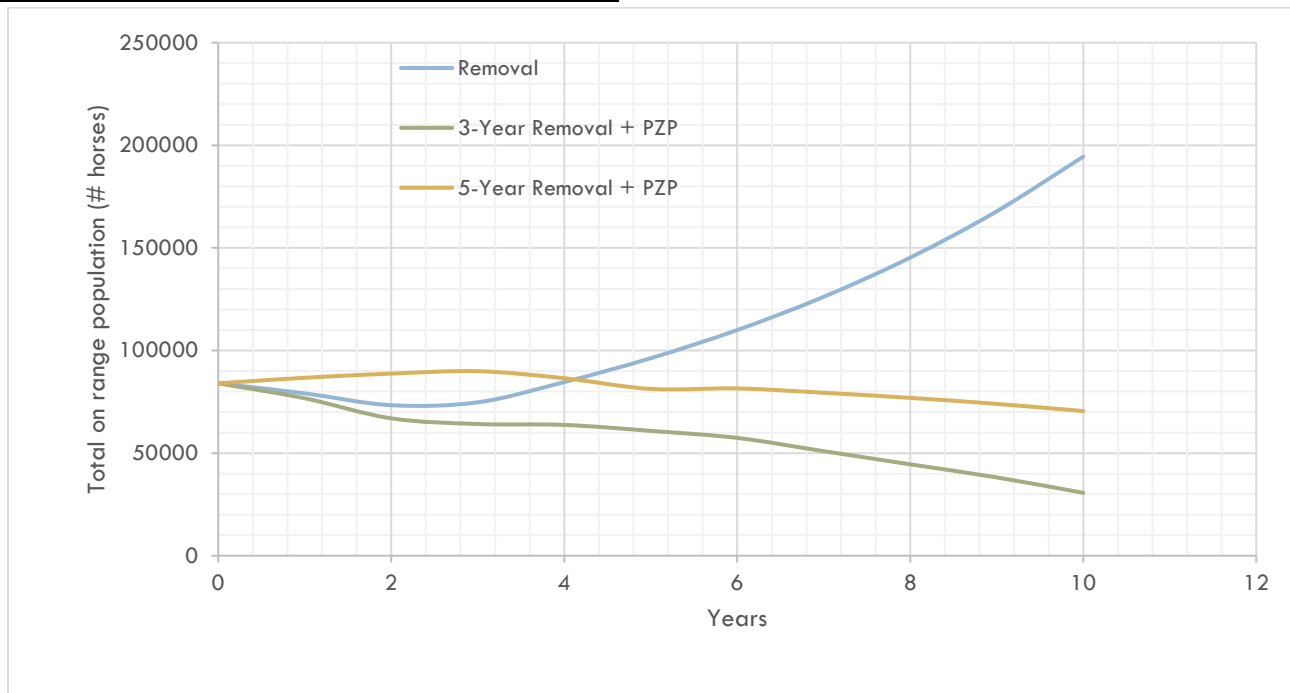


Figure 1. Population growth models demonstrate the differential effect of management strategies that incorporate both traditional round up practices and the application of PZP. In the Removal scenario, no application of PZP is administered. The 3-year treatment uses the same removal plan, but includes the application of PZP to horses through round-up and range application. The 5-year treatment has less aggressive removals over a longer period of time (10,000 a year for five years) combined with the application of PZP to horses through round-up and range application. A growth rate of 18% is assumed for wild populations. We computed a growth rate of -6% for PZP treated populations assuming 50% mare fraction, 56% foaling rate, 91% efficacy, and 8.5% mortality.

<sup>5</sup> The 2013 NAS report examines the efficacy of PZP through a variety of studies, concluding that the mean efficacy rate is 91.5%. Page 102.

<sup>6</sup> These scenarios are dependent on the BLM's capacity and resources to remove, treat, and house wild horses and burros. These figures are estimates subject to change based on a variety of factors.



- From this point, it will take approximately 10 years to get the population close to the BLM's current desired AML of 26,715 based solely on the use of Zonastat-H or another yearly contraceptive.
- Longer-lasting vaccines like PZP-22 will lower costs and reduce the need for yearly treatment, and the addition of safe and viable sterilization programs will increase the rate at which populations decline. As such, additional fertility control tools should be implemented as soon as they become feasible.

### III. LESS EXPENSIVE HOLDING OPTIONS

*Every day, the BLM spends \$1.82 per horse in long term holding pastures and an average of \$4.99 per horse in corral facilities.<sup>7</sup> A shortage of pasture facilities has forced the agency to use corral facilities for long term purposes —at more than twice the expense. The BLM currently holds 11,902 horses in corral facilities. The agency estimates that each of those horses costs approximately \$46,000 over the course of their lifetime. We propose that the BLM relocate corralled horses, along with any additional removed horses, to more cost-effective private pastures. Private pastures help reduce population levels in individual HMAs to enable proper management, reduce the agency's management costs, and provide humane living situations. It also ensures that lethal methods do not become the default public policy.*

*While this proposal requires an additional funding investment to achieve this shift in focus, it will result in long-term cost savings. We must identify adequately large pasture options that can accommodate not only the horses currently housed in corral facilities but also the approximately 50,000 more horses that may be removed from the range. The overarching goal is to ensure that future gathers will be conducted solely to administer a comprehensive, mandatory fertility-control program. The implementation of ongoing on-range fertility control will mean fewer horses removed, which will ultimately enable a phase-out of holding facilities. As holding facilities are phased out, BLM funds will become available to pay for continued fertility control treatment. Below are models that offer practical options for achieving this ultimate goal.*

#### Large-Scale Private Pasture or Sanctuary Facilities

- The American Mustang Foundation (AMF) proposes a tangible solution to the wild horse population problem by providing humane, long-term, off-range pasture for up to 50,000 wild

---

<sup>7</sup> Department of Interior, September 26<sup>th</sup>, 2017.

horses or burros. The BLM would retain ownership of these animals to ensure their federally protected status.

- This service will save tax money by decreasing the average per-horse cost of off-range management and contracting, compared to the current cost-prohibitive corral facilities. AMF will follow BLM intake protocol regarding sterilization and will maintain non-reproducing herds. AMF's proposal decreases the costs of transportation, gathering, and contracting, and allows the animals to live out their lives in natural pasture settings.
- Return to Freedom, a non-profit wild horse conservation organization, proposes that non-profit organizations, private landowners, or a combination of the two, provide placement options to relocate wild horses to sanctuary settings for the remainder of their lives. Non-Profit 501(c)(3) Organizations and partnering land owners may also enter into long term off range pasture with the BLM with the agency maintaining title of the animals to ensure their federally protected status.
- Qualified sanctuaries are an additional alternative, reducing the BLM's holding costs while providing removed horses a life-long safe refuge. Landowners may work in partnership with qualified sanctuaries.
- Private pasture and sanctuary facilities would be encouraged to provide programs to educate the public about the connection between managed wild horse populations and rangeland health.
- All facilities involved in the program will contractually agree that horses in their care will not be sent to slaughter, nor will healthy horses and burros be killed.

#### IV. ADOPTIONS

**Over the course of the past 5 years, the BLM has only been able to adopt between 2,000-3,000 wild horses and burros a year. Recognizing that this number is insufficient to lower populations in holding facilities in any meaningful way, if this plan is adopted our organizations will work together to create an adoption program to supplement the BLM's current adoption program that will aid in increasing the adoption of horses relocated into the above mentioned private facilities.**

- The Wild Horse and Burro Program plays a key role in reducing the number of animals on the range. However, adoption demand has declined in recent years.
  - If the agency adopts our proposal, our organizations are committed to helping increase wild horse and burro adoptions in partnership with the BLM. We will develop and implement a program to encourage the public to adopt a wild horse or burro through the implementation of educational training/mentoring programs with adoptable horses and a marketing plan, funded solely by our organizations, which will supplement the agency's current program.
  - We have determined that the largest possible target audience that is not being tapped by the BLM are potential horse owners on the East Coast. Our team will work to increase publicity across the country with a specific focus on the East Coast to aid in increasing adoption numbers.
-

- We will use our volunteer network and extensive outreach capabilities to promote adoptable horses to potential adopters through the use of our social media and email channels.

## PRESIDENT'S BUDGET REQUEST

---

*We understand that this program will require significant funding in its initial stage. However, without additional funding to the Wild Horse and Burro Program, the BLM will be unable to pursue any management plan that will alleviate the current crisis. If no action is taken, the cycle of removals and ever-increasing costs will continue unabated, or the agency will pursue mass killing programs that create an enormous and unsustainable public backlash. By granting this appropriations request, the agency will have a humane pathway forward. An up-front financial commitment will result in long-term economic and ecological gains as the BLM is able to balance rangeland populations, increase rangeland health, and cease costly holding facilities in the long term. This necessary and worthwhile investment will lead to extraordinary cost savings and a success story for the American public.*

### RECOMMENDED LANGUAGE:

The Bureau of Land Management (BLM) shall use any reappropriated, or new additional funding to address population control and on-range management of wild horses and burros on public lands through combining contraception application with removal of excess horses and burros. If removals are necessary, BLM shall prioritize removal of horses within sensitive species habitat, on most heavily populated Herd Management Areas (HMA's), and horses living outside of HMA's. The BLM shall combine contraception methods with removals by ensuring a significant portion of remaining horses are treated and shall utilize cost savings contracts that enable management of a large volume of removed horses on private, contracted, pasture. The BLM is prohibited from utilizing this funding to kill healthy horses, sell without restriction, or otherwise enable wild horses or burros to be slaughtered for commercial or non-commercial purposes.

### Acknowledgements

The authors thank Dr. Steven Sadro<sup>1</sup> for technical assistance and for constructing the population modeling projections file. We also thank the BLM's wild horse and burro program officers and employees who have offered input and discussion in regards to wild horse populations and structuring collaborative projects with the Bureau.

1: Department of Environmental Science and Policy, University of California at Davis, 1023 Wickson Hall, One Shields Avenue, Davis, California, 95616 (email: [ssadro@ucdavis.edu](mailto:ssadro@ucdavis.edu)).

---

Year	AML	Population of horses on range	Population of burros on range	Total population on range	Total population horses and burros in short term holding	Population of horses in long term holding	Budget allocation	# of horses on PZP-22 fertility control	PZP-22 total cost (\$2750/animal)	# horses on ZonaStat fertility control	ZonaStat total cost (\$500/animal)	Percentage budget allocation spent on fertility control	Number of horses and burros removed from the range
2007	27,492	25,689	2,874	28,563	9,595	19,722	36,354,000	113	310,750	20	10,000	0.88	7,726
2008	27,219	29,644	3,461	33,105	9,508	21,540	36,201,000	154	423,500	0	0	1.17	5,275
2009	26,578	33,102	3,838	36,940	9,422	22,217	40,613,000	582	1,600,500	0	0	3.94	6,417
2010	26,576	33,692	4,673	38,365	11,277	23,702	63,986,000	494	1,358,500	20	10,000	2.14	10,255
2011	26,576	33,014	5,483	38,497	11,940	28,649	75,753,000	878	2,414,500	183	91,500	3.31	8,877
2012	26,545	31,453	5,841	37,294	13,972	32,457	74,888,000	878	2,414,500	167	83,500	3.34	8,577
2013	26,677	33,780	6,825	40,605	15,999	33,688	71,836,000	310	852,500	199	99,500	1.33	4,176
2014	26,684	40,815	8,394	49,209	15,297	32,882	77,250,000	65	178,750	319	159,500	0.44	1,857
2015	26,715	47,329	10,821	58,150	16,444	31,101	77,245,000	183	503,250	286	143,000	0.84	3,819
2016	26,715	55,311	11,716	67,027	13,511	32,150	80,555,000	118	324,500	334	167,000	0.61	3,320
2017	26,715	59,483	13,191	72,674	13,234	32,781							

All data in this spreadsheet from the following sources:

National Wild Horse and Burro Advisory Board Meeting Minutes

National Academy of Sciences Report in Brief: Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward (2013)

<https://www.blm.gov/programs/wild-horse-and-burro/about-the-program/program-data>

Personal correspondence with Public Affairs officer for the WH&B Program

7/7/17

Compiled by [www.returntofreedom.org](http://www.returntofreedom.org)



# Conversation Contents

**Updated invitation: Ext. Mtg. w/Allen Freemyer re Alton Coal @ Fri Oct 20, 2017 1pm - 1:30pm (kbenedetto@blm.gov)**

## Attachments:

/20. Updated invitation: Ext. Mtg. w/Allen Freemyer re Alton Coal @ Fri Oct 20, 2017 1pm - 1:30pm (kbenedetto@blm.gov)/1.1 invite.ics

/20. Updated invitation: Ext. Mtg. w/Allen Freemyer re Alton Coal @ Fri Oct 20, 2017 1pm - 1:30pm (kbenedetto@blm.gov)/1.2 invite.ics

**Linda Thurn <lthurn@blm.gov>**

---

**From:** Linda Thurn <lthurn@blm.gov>  
**Sent:** Wed Oct 18 2017 14:24:37 GMT-0600 (MDT)  
**To:** kbenedetto@blm.gov, bsteed@blm.gov  
**CC:** vbolden@blm.gov  
**Subject:** Updated invitation: Ext. Mtg. w/Allen Freemyer re Alton Coal @ Fri Oct 20, 2017 1pm - 1:30pm (kbenedetto@blm.gov)  
**Attachments:** invite.ics invite.ics

This event has been changed.

### **Changed: Ext. Mtg. w/Allen Freemyer re Alton Coal**

[more details »](#)

**When** Fri Oct 20, 2017 1pm – 1:30pm Eastern Time

**Where** Room 5071 ([map](#))

**Calendar** kbenedetto@blm.gov

**Who**

- lthurn@blm.gov - organizer, optional
- kbenedetto@blm.gov
- bsteed@blm.gov
- vbolden@blm.gov - optional

Going? [Yes](#) - [Maybe](#) - [No](#) [more options »](#)

Invitation from [Google Calendar](#)

You are receiving this email at the account kbenedetto@blm.gov because you are subscribed for updated invitations on calendar kbenedetto@blm.gov.

To stop receiving these emails, please log in to <https://www.google.com/calendar/> and change your notification settings for this calendar.

Forwarding this invitation could allow any recipient to modify your RSVP response. [Learn More.](#)

# Conversation Contents

## Pershing County Lands Legislation

### Attachments:

/21. Pershing County Lands Legislation/1.1 Pershing County Summary 10-13-17.docx

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Fri Oct 13 2017 13:42:21 GMT-0600 (MDT)  
**To:** "kbenedetto@blm.gov" <kbenedetto@blm.gov>  
**Subject:** Pershing County Lands Legislation  
**Attachments:** Pershing County Summary 10-13-17.docx

Kate and Kathy,

Thank you for your time this week to discuss the Pershing County Lands legislation sponsored by the Nevada Delegation. Attached is a summary of the provisions of the bill which provides the information requested in our meeting. We would be happy to answer any questions or provide any further information. Thank you again for your time. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496

# Pershing County Economic Development and Conservation Act

## Executive Summary

### **Purpose**

- To benefit Pershing County by increasing the private land base to stimulate much needed economic growth and development in an impoverished county where the average income is only \$45,230 and 17.5% of the population live below the poverty line.
- To facilitate mineral exploration and development on roughly 150,600 acres through sales of lands with existing mines and mineral deposits and making lands that are currently off-limits open to mineral entry.
- To resolve the longstanding uncertainty about wilderness designation by releasing 48,600 acres of Wilderness Study Areas (WSAs) from further consideration as wilderness and to designate 136,072 acres identified by Pershing County stakeholders as wilderness
- To facilitate the expansion of existing mines and the development of new mines in the county to create and preserve high-paying mining jobs and tax revenues from mining.
- To enhance opportunities for sustainable development of previously mined lands for other post-mining land uses.
- To achieve an overall balance between lands available for multiple use and wilderness by making 150,600 acres available for mineral development while setting aside 136,072 acres as wilderness, this bill stands in marked contrast to most land bills in which the wilderness acres far exceed the acres of lands made available for multiple use, or sold or exchanged to mining or other private interests.
- To utilize receipts from land sales to purchase lands with higher public resource values such as recreation, species habitat, and conservation.

### **Title I—Checkerboard Land Resolution—Privatization of Federal Lands**

The legislation establishes the Checkerboard Lands Resolution Area within Pershing County. All of the authorizations in Title I of the Act occur within this boundary.

Title I authorizes the sale or exchange of a maximum of 150,000 acres of federal lands within the 300,000-acre Checkerboard Land Resolution Area (“eligible lands”) which have been previously identified by the BLM as available for sale or exchange according to the 2015 Winnemucca Resource Management Plan. These lands will be sold through a competitive bidding process or exchanged for other private lands.

**Local Control**—Title I provides Pershing County with complete control to identify those parcels of the eligible lands that will be offered for sale or exchange, which will allow the County to rule out any lands on which there may be pre-existing land use conflicts (i.e., mining claims or grazing permits) that would be difficult to resolve. Once the County identifies lands for sale or exchange, the County and the Secretary will jointly offer them for sale or exchange. The County may also postpone or exclude certain lands from sale or exchange. The Title I sales will be a market-driven mechanism for consolidating lands into contiguous blocks of federal or private land to reduce land management conflicts; to satisfy important public land objectives including habitat enhancement, environmental

protection, and recreational opportunities; and to facilitate economic development on private lands.

Proceeds from Sales: Proceeds from the sale of Federal lands will be shared between the State, Pershing County, and the BLM—as opposed to all proceeds going back to the Federal Treasury.

- State of Nevada—5% for general public education per the Nevada Enabling Act.
- Pershing County, Nevada—10% to be utilized as the County chooses.
- Pershing County Special Account—85% available to the Secretary of Interior to be used in Pershing County for the following purposes:
  - 1) Reimbursement of costs for sale and exchange transaction fees and costs, including surveys, appraisals, and NEPA compliance.
  - 2) Conduct habitat conservation and restoration projects for greater sage-grouse in Pershing County.
  - 3) Projects within Pershing County to address drought.
  - 4) Implementation of wildfire pre-suppression and restoration projects in Pershing County.
  - 5) Acquisition of environmentally sensitive lands within the County.
  - 6) Conduct surveys of congressionally designated Wilderness areas.

## **Title II—Section 201: Land Sales to Mining Operations**

Title II is a mechanism to stimulate mineral resource development consistent with the mineral policy objectives discussed during Secretary Zinke’s August 24, 2017 Critical Minerals Roundtable.

Title II authorizes the fair market sale of certain federal lands (approximately 102,000 acres) currently held under mining claims to entities that have paid the 2017 claim maintenance fees as depicted on the proposed map. These sales will allow current mining operators to own the lands they currently mine, which will facilitate future mine expansion and post-mining redevelopment of mined lands for other economic uses. If companies choose to purchase their lands held by claims, these lands would be privately owned and the companies would be required to pay all State and County taxes associated with ownership. The purchase would be subject to pre-existing third-party rights on the land including rights-of-way and grazing permits. The companies purchasing the lands would be required to pay all costs and transaction fees associated with the purchases. The companies would have 5 years to complete the purchases. Proceeds of these sales would be distributed pursuant to Title I. Title II sunsets in 10 years after the date of enactment.

## **Title II – Section 202—Unionville Cemetery**

Requires the Secretary of Interior to convey 225 acres of federal lands to the Unionville Cemetery to be used for public cemetery purposes without consideration. This provision resolves a longstanding issue with the cemetery’s location on public land and will greatly benefit families whose loved ones are buried there and who want to continue to use the cemetery in the future.

## **Title III—Wilderness Designations**



This legislation provides a unique opportunity to end the decades-long standstill on wilderness in Pershing County by releasing 48,600 acres of WSAs that have been managed for over 30 years as quasi-wilderness areas and off-limits to a variety of multiple uses. These lands will be released from the WSA inventory and managed in the future as ordinary public lands.

The bill also designates 136,072 acres as wilderness, comprised of WSAs that BLM recommended as suitable for wilderness designation and three new proposed lands with wilderness characteristics that the Pershing County Checkerboard Committee identified as suitable for wilderness.

#### **Release of Wilderness Study Areas:**

- Section 304 releases the following areas from Wilderness Study Area status and returns them for typical management by the BLM:
  - 48,600 acres of lands in portions of the Augusta Mountain, China Mountain, Mt. Limbo, Selenite Mountains, and Tobin Range wilderness study areas.

#### **Designation of Wilderness Areas:**

Title III designates a total of 136,072 acres as Wilderness as part of the National Wilderness Preservation System in the following areas:

- Cain Mountain—12,339 acres
- Blue Wing Wilderness—24,900 acres
- Fencemaker Wilderness—14,942 acres
- Mount Limbo Wilderness—11,855 acres
- North Sahwave Wilderness—13,875 acres
- Grandfather's Wilderness—35,339 acres
- Selenite Peak Wilderness—22,822 acres

#### **Administration of Wilderness Areas:**

Subject to Valid Existing Rights

- Access – based on stakeholder input, existing road access would be preserved
- Mineral withdrawal--Wilderness areas are withdrawn from all mineral entry, leasing, appropriation or disposal under public land laws.
- Grazing-- will continue in Wilderness areas pursuant to House Report 101-405 which provides:
  - No curtailment of grazing in Wilderness areas simply because an area is designated as wilderness; nor should grazing be phased out slowly due to the wilderness designation. Any adjustments in numbers of livestock must be made as a result of normal grazing and land management planning and policy giving consideration to range conditions and protection from deterioration.
  - Maintenance of supporting facilities, existing prior to classification as wilderness, including fences, line cabins, water wells and lines, stock tanks, etc. is permissible in wilderness areas. Where practical alternatives do not exist, motorized equipment may be used to maintain those facilities. For example, a backhoe may be used to maintain stock ponds, pickup trucks for major fence repairs, specialized equipment to repair

stock watering facilities, or truck hauling of large quantities of salt. Motorized equipment uses should be permitted in those areas where they occurred prior to the wilderness designation.

- Replacement or reconstruction of facilities is allowed.
- Construction or new improvements or replacement of deteriorated facilities in wilderness is permissible.
- Use of motorized equipment for emergency purposes such as rescuing sick animals or placement of feed is permissible.
- Summary: the general rule of thumb on grazing management in wilderness should be that activities or facilities established prior to the date of an area's designation as wilderness should be allowed to remain in place and may be replaced when necessary for the permittee to properly administer the grazing program. Thus, if livestock grazing activities and facilities were established in an area at the time Congress determined that the area was suitable for wilderness and placed the specific area in the wilderness system, they should be allowed to continue.
- No Buffer Zones—No buffer zones around wilderness areas. The fact that activities or uses can be seen or heard from areas within a wilderness area shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.
- Low-level overflights of military aircraft are allowed.
- The language provides the necessary flexibility for the Secretary to effectively manage the wilderness areas to control fire, insects, and diseases—including in coordination with State or local agencies.
- The Secretary may authorize the installation and maintenance of hydrologic, meteorological, or climatological collection devices in the wilderness areas.
- Section 304—nothing in the Act alters treaty rights of any Indian tribe.
- Water Rights:
  - Nothing in the Act constitutes an express or implied reservation of water by the United States.
  - Nothing in the Act affects any water rights in the State of Nevada as of the date of enactment.
  - Nothing in the Act alters or amends any water compacts or decrees between Nevada and other states.
  - The Secretary must follow requirements of Nevada State law in order to obtain and hold any water rights with respect to wilderness areas.
  - Except for wildlife guzzlers, new water resource facilities are prohibited within the wilderness areas.
- Wildlife Management:
  - Nothing in the Act affects or diminishes the jurisdiction of the State of Nevada with respect to management of fish and wildlife, hunting, fishing and trapping.
  - Management activities to maintain or restore fish and wildlife are allowed—including motorized or aircraft access when necessary to manage wildlife populations.
  - Water development for wildlife such as guzzlers is allowed.

- Wildlife management shall be in accordance with previous agreements between the State of Nevada and the BLM.

# Conversation Contents

**Updated invitation: Meeting w/ Pershing Gold re: Pershing County Lands Bill @ Tue Oct 10, 2017 12:30pm - 1:15pm (kbenedetto@blm.gov)**

## Attachments:

/22. Updated invitation: Meeting w/ Pershing Gold re: Pershing County Lands Bill @ Tue Oct 10, 2017 12:30pm - 1:15pm (kbenedetto@blm.gov)/1.1 invite.ics

/22. Updated invitation: Meeting w/ Pershing Gold re: Pershing County Lands Bill @ Tue Oct 10, 2017 12:30pm - 1:15pm (kbenedetto@blm.gov)/1.2 invite.ics

**Tracie Lassiter <tracie\_lassiter@ios.doi.gov>**

---

**From:** Tracie Lassiter <tracie\_lassiter@ios.doi.gov>  
**Sent:** Thu Oct 05 2017 10:56:42 GMT-0600 (MDT)  
**To:** kbenedetto@blm.gov, katharine\_macgregor@ios.doi.gov, casey\_hammond@ios.doi.gov  
**CC:** lthurn@blm.gov  
**Subject:** Updated invitation: Meeting w/ Pershing Gold re: Pershing County Lands Bill @ Tue Oct 10, 2017 12:30pm - 1:15pm (kbenedetto@blm.gov)  
**Attachments:** invite.ics invite.ics

This event has been changed.

**Changed: Meeting w/ Pershing Gold re: Pershing County Lands Bill**

[more details »](#)

Tracie,

I would like to request a meeting with Katharine MacGregor to discuss the Pershing County Lands Bill. Attendees would include Debra Struhsacker, VP of Pershing Gold, and their DC Representative, Allen Freemyer. Would Ms. MacGregor be available to meet with them on September 19th?

Thank you.

Christopher Barney  
Freemyer & Associates PC  
435-881-0661  
[chris@adfpc.com](mailto:chris@adfpc.com)

When Tue Oct 10, 2017 12:30pm – 1:15pm Eastern Time

Where Room 6616 ([map](#))

Video call [https://plus.google.com/hangouts/\\_/doi.gov/katharine-macgr](https://plus.google.com/hangouts/_/doi.gov/katharine-macgr)

Calendar kbenedetto@blm.gov

Who

- katharine\_macgregor@ios.doi.gov - organizer
- tracie\_lassiter@ios.doi.gov - creator
- kbenedetto@blm.gov
- casey\_hammond@ios.doi.gov

- [lthurn@blm.gov](mailto:lthurn@blm.gov) - optional

Going? [Yes](#) - [Maybe](#) - [No](#) [more options »](#)

Invitation from [Google Calendar](#)

You are receiving this email at the account [kbenedetto@blm.gov](mailto:kbenedetto@blm.gov) because you are subscribed for updated invitations on calendar [kbenedetto@blm.gov](mailto:kbenedetto@blm.gov).

To stop receiving these emails, please log in to <https://www.google.com/calendar/> and change your notification settings for this calendar.

Forwarding this invitation could allow any recipient to modify your RSVP response. [Learn More](#).

# Conversation Contents

Updated invitation: Meeting w/ Pershing Gold @ Tue Oct 10, 2017 12:30pm - 1:15pm (kbenedetto@blm.gov)

## Attachments:

/23. Updated invitation: Meeting w/ Pershing Gold @ Tue Oct 10, 2017 12:30pm - 1:15pm (kbenedetto@blm.gov)/1.1 invite.ics  
/23. Updated invitation: Meeting w/ Pershing Gold @ Tue Oct 10, 2017 12:30pm - 1:15pm (kbenedetto@blm.gov)/1.2 invite.ics

**Tracie Lassiter** <tracie\_lassiter@ios.doi.gov>

---

**From:** Tracie Lassiter <tracie\_lassiter@ios.doi.gov>  
**Sent:** Tue Oct 03 2017 13:18:18 GMT-0600 (MDT)  
**To:** kbenedetto@blm.gov, katharine\_macgregor@ios.doi.gov  
**CC:** lthurn@blm.gov  
**Subject:** Updated invitation: Meeting w/ Pershing Gold @ Tue Oct 10, 2017 12:30pm - 1:15pm (kbenedetto@blm.gov)  
**Attachments:** invite.ics invite.ics

This event has been changed.

## Meeting w/ Pershing Gold

[more details »](#)

Tracie,

I would like to request a meeting with Katharine MacGregor to discuss the Pershing County Lands Bill. Attendees would include Debra Struhsacker, VP of Pershing Gold, and their DC Representative, Allen Freemyer. Would Ms. MacGregor be available to meet with them on September 19th?

Thank you.

Christopher Barney  
Freemyer & Associates PC  
435-881-0661  
[chris@adfpc.com](mailto:chris@adfpc.com)

When **Changed:** Tue Oct 10, 2017 12:30pm – 1:15pm Eastern Time

Where Room 6616 ([map](#))

Video call [https://plus.google.com/hangouts/\\_/doi.gov/katharine-macgr](https://plus.google.com/hangouts/_/doi.gov/katharine-macgr)

Calendar kbenedetto@blm.gov

Who

- katharine\_macgregor@ios.doi.gov - organizer
- tracie\_lassiter@ios.doi.gov - creator
- kbenedetto@blm.gov
- lthurn@blm.gov - optional

Going? [Yes](#) - [Maybe](#) - [No](#) [more options »](#)

Invitation from [Google Calendar](#)

You are receiving this email at the account kbenedetto@blm.gov because you are subscribed for updated invitations on calendar kbenedetto@blm.gov.

To stop receiving these emails, please log in to <https://www.google.com/calendar/> and change your notification settings for this calendar.

Forwarding this invitation could allow any recipient to modify your RSVP response. [Learn More.](#)

# Conversation Contents

**Invitation: Meeting w/ Pershing Gold @ Tue Oct 10, 2017 1pm - 1:45pm**  
(kbenedetto@blm.gov)

## Attachments:

/24. Invitation: Meeting w/ Pershing Gold @ Tue Oct 10, 2017 1pm - 1:45pm  
(kbenedetto@blm.gov)/1.1 invite.ics  
/24. Invitation: Meeting w/ Pershing Gold @ Tue Oct 10, 2017 1pm - 1:45pm  
(kbenedetto@blm.gov)/1.2 invite.ics

## Yolando Mack-Thompson <ymackthompson@blm.gov>

**From:** Yolando Mack-Thompson <ymackthompson@blm.gov>  
**Sent:** Fri Sep 29 2017 08:03:32 GMT-0600 (MDT)  
**To:** kbenedetto@blm.gov, katharine\_macgregor@ios.doi.gov  
**CC:** lthurn@blm.gov  
**Subject:** Invitation: Meeting w/ Pershing Gold @ Tue Oct 10, 2017 1pm - 1:45pm (kbenedetto@blm.gov)  
**Attachments:** invite.ics invite.ics

### Meeting w/ Pershing Gold

[more details »](#)

Tracie,

I would like to request a meeting with Katharine MacGregor to discuss the Pershing County Lands Bill. Attendees would include Debra Struhsacker, VP of Pershing Gold, and their DC Representative, Allen Freemyer. Would Ms. MacGregor be available to meet with them on September 19th?

Thank you.

Christopher Barney  
Freemyer & Associates PC  
435-881-0661  
[chris@adfpc.com](mailto:chris@adfpc.com)

When Tue Oct 10, 2017 1pm – 1:45pm Eastern Time  
Where Room 6616 ([map](#))  
Video call [https://plus.google.com/hangouts/\\_/doi.gov/katharine-macgr](https://plus.google.com/hangouts/_/doi.gov/katharine-macgr)  
Calendar kbenedetto@blm.gov  
Who

- katharine\_macgregor@ios.doi.gov - organizer
- tracie\_lassiter@ios.doi.gov - creator
- kbenedetto@blm.gov
- lthurn@blm.gov - optional

Going? [Yes](#) - [Maybe](#) - [No](#) [more options »](#)

Invitation from [Google Calendar](#)

You are receiving this email at the account kbenedetto@blm.gov because you are subscribed for invitations on calendar



kbenedetto@blm.gov.

To stop receiving these emails, please log in to <https://www.google.com/calendar/> and change your notification settings for this calendar.

Forwarding this invitation could allow any recipient to modify your RSVP response. [Learn More.](#)

# Conversation Contents

## Wild Horse meeting

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Fri Sep 15 2017 15:18:49 GMT-0600 (MDT)  
**To:** "Timothy Williams (timothy\_williams@ios.doi.gov)"  
<timothy\_williams@ios.doi.gov>  
**CC:** "Kathy Benedetto (Kathleen\_Benedetto@ios.doi.gov)"  
<Kathleen\_Benedetto@ios.doi.gov>, Drew Lesofski  
<lesofski@gmail.com>  
**Subject:** Wild Horse meeting

Tim,

It is our understanding that the Department is hosting a wild horse meeting on September 26<sup>th</sup>. The American Mustang Foundation (AMF) is requesting that we be invited to attend this meeting. As we have discussed with you, Dean, Marshall, and Kathy, we believe we bring to bear an important component of a solution which is the long-term private storage of large numbers of horses. We have been working with ranchers, county commissioners, state officials, and horse advocates and our proposal has been very well received as a tool to remove large numbers of horses from the range and is an important piece of a solution to this crisis. We would appreciate the opportunity to be involved in discussions with the Department. Thank you for your consideration and I look forward to hearing from you. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496

# Conversation Contents

**Lake Mountain issue in Utah**

**Attachments:**

/26. Lake Mountain issue in Utah/1.1 Lake Mountain Federal Gov Letter.pdf

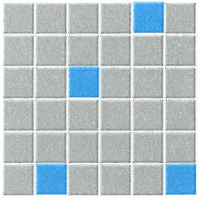
**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Wed Sep 13 2017 09:00:35 GMT-0600 (MDT)  
**To:** "Kathy Benedetto (Kathleen\_Benedetto@ios.doi.gov)"  
<Kathleen\_Benedetto@ios.doi.gov>  
**Subject:** Lake Mountain issue in Utah  
**Attachments:** Lake Mountain Federal Gov Letter.pdf

Kathy,  
I wanted to bring to your attention this plan amendment designed to address a serious safety issue. This has been a joint BLM/SITLA effort to resolve this safety concern. Thank you for your attention to this issue. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496



State of Utah  
School & Institutional  
Trust Lands Administration

675 East 500 South, Suite 500  
Salt Lake City, UT 84102-2813  
801-538-5100  
801-355-0922 (Fax)  
[www.trustlands.utah.gov](http://www.trustlands.utah.gov)

Gary R. Herbert  
Governor

Spencer J. Cox  
Lieutenant Governor

David Ure  
Director

September 8, 2017

The Honorable Ryan Zinke  
Secretary of the Interior  
1849 C Street, N.W.  
Washington, DC 20240

**RE: Environmental Assessment - DOI-BLM-UT-W010-2015-0015-EA  
Eastern Lake Mountains Target Shooting Plan Amendment, Finding of No Significant Impact**

Dear Mr. Secretary:

We are writing on behalf of the State of Utah School and Institutional Trust Lands Administration (SITLA) and the Utah County Commission to express our strong support for the above-referenced Environmental Assessment (EA) DOI-BLM-UT-W010-2015-0015-EA for the Eastern Lake Mountains Target Shooting Plan Amendment (Plan Amendment).

The Plan Amendment currently under review by your office is a critical element of a cohesive management strategy that has been developed between the federal, state, and local government levels to address several issues related to undisciplined public target shooting in the Eastern Lake Mountains area, which is located approximately 40 miles south of Salt Lake City. The development of this Plan Amendment represents the culmination of several years of partnership between ourselves and the BLM and has included the input of local residents, state legislators, shooting sports representatives and archaeological preservation groups. The Utah County Commission has unanimously passed a resolution in favor of the Plan Amendment, to which no negative public comments were received.

One of the critical issues that will be addressed by this Plan Amendment is public safety. Given the proximity of this area to private residences, mining operations, major roadways, and a planned public shooting range, we feel that ongoing public target shooting in the proposed closure area represents a significant threat to public safety. A nearby private residence has been struck by stray bullets on more than one occasion. Many other recreational users have been displaced from this area due to concerns for their own safety. We are even aware of an instance a few years ago where a bus load of school kids was forced to take cover as stray bullets flew overhead.

We, along with the BLM, are aware of several archaeological sites, including rock art panels, within the proposed closure area. Some of these rock art panels have been used as targets, or otherwise damaged, by target shooters in the past. We, along with archaeological preservation groups

who have been involved in the planning process, feel that the Plan Amendment will help protect these one-of-a-kind resources.

Wildfires caused by undisciplined target shooting are another major concern in the area. Over the past few years several fires have been documented as being started by target shooters. The Dump Fire, which was caused by target shooters in 2012, burned over 5,500 acres and threatened hundreds of nearby residences. Fire suppression costs by federal, state, and local agencies totaled \$2.1 million. Subsequent flooding and mudslides resulting from the unprotected fire scar damaged several homes in the nearby city of Saratoga Springs.

Large amounts of illegally dumped household trash, appliances, electronics, and other "trigger trash" have been brought into the area by target shooters or left by others and shot at as targets. Cleaning up the messes left behind is very expensive and time consuming. In addition to the unsightly nature of the garbage and litter left behind, some of the materials left behind, such as certain electronic components and concentrations of lead, pose risks to the environment.

Please see the enclosed ownership map of the area to give you an understanding of the scattered ownership and accompanying management jurisdiction challenges. As you can see, SITLA has as much, if not more, at stake than BLM regarding resource management issues impacted by undisciplined target shooting in this area. We also hope that you'll recognize that in order to implement an effective solution to these challenges it is critical that Utah County, SITLA, and the BLM implement a cohesive management strategy. This sentiment is echoed by the Utah County Sheriff's Department, who have been the "boots on the ground" dealing with many of the aforementioned issues.

We recognize that target shooting is a legitimate form of public recreation that is enjoyed by many families and individuals and we are supportive of responsible target shooting activities. We also recognize that the implementation of the Plan Amendment, along with shooting closures on SITLA lands, will inevitably disperse the public from these areas. The public needs a place where they can go to shoot and enjoy these activities. To that end, Utah County intends to develop a public shooting range on 160 acres of land which was recently deeded to the county by the BLM through the Recreation and Public Purposes Act. It is also worth noting that only one-tenth of the lands administered by BLM and SITLA in the greater Lake Mountain area are poised for formal target shooting restrictions.

We have met with the BLM and other stakeholders out on the ground several times as the Plan Amendment was being developed and assure you that our strategy has been carefully developed and refined. We have found the local BLM leadership to be very receptive to input from ourselves and other stakeholders during the development of this Plan Amendment. We feel that the BLM has done a great job of adjusting the boundaries of the proposed target shooting closure area to only include the acreage absolutely necessary to accomplish our shared goals without imposing unreasonable restrictions on the users who legitimately enjoy their use of these public lands.

It is our hope that this gives you a broader perspective and understanding of the gravity of this problem and the reasons why we are anxious to move forward with the BLM to implement this shared management strategy. We respectfully request your support and the expeditious approval of the Plan Amendment by the BLM's Utah State Director.

Sincerely,



---

David Ure, Director  
State of Utah School and Institutional  
Trust Lands Administration



---

Bill Lee, Commission Chair  
Utah County Commission

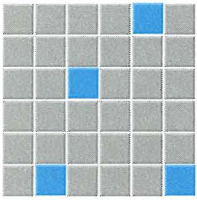
cc Ed Roberson, Utah State Director, BLM  
Kevin Oliver, West Desert District Manager, BLM  
Matthew Preston, Salt Lake Field Office Manager, BLM  
Kim Christy, Deputy Director, SITLA

Enclosure









State of Utah  
School & Institutional  
Trust Lands Administration

675 East 500 South, Suite 500  
Salt Lake City, UT 84102-2813  
801-538-5100  
801-355-0922 (Fax)  
[www.trustlands.utah.gov](http://www.trustlands.utah.gov)

Gary R. Herbert  
Governor

Spencer J. Cox  
Lieutenant Governor

David Ure  
Director

September 8, 2017

Mr. Mike Nedd  
Acting Director, Bureau of Land Management  
Department of the Interior  
1849 C Street NW  
Washington, DC 20240

**RE: Environmental Assessment - DOI-BLM-UT-W010-2015-0015-EA  
Eastern Lake Mountains Target Shooting Plan Amendment, Finding of No Significant Impact**

Dear Mr. Nedd:

We are writing on behalf of the State of Utah School and Institutional Trust Lands Administration (SITLA) and the Utah County Commission to express our strong support for the above-referenced Environmental Assessment (EA) DOI-BLM-UT-W010-2015-0015-EA for the Eastern Lake Mountains Target Shooting Plan Amendment (Plan Amendment).

The Plan Amendment currently under review by your office is a critical element of a cohesive management strategy that has been developed between the federal, state, and local government levels to address several issues related to undisciplined public target shooting in the Eastern Lake Mountains area, which is located approximately 40 miles south of Salt Lake City. The development of this Plan Amendment represents the culmination of several years of partnership between ourselves and the BLM and has included the input of local residents, state legislators, shooting sports representatives and archaeological preservation groups. The Utah County Commission has unanimously passed a resolution in favor of the Plan Amendment, to which no negative public comments were received.

One of the critical issues that will be addressed by this Plan Amendment is public safety. Given the proximity of this area to private residences, mining operations, major roadways, and a planned public shooting range, we feel that ongoing public target shooting in the proposed closure area represents a significant threat to public safety. A nearby private residence has been struck by stray bullets on more than one occasion. Many other recreational users have been displaced from this area due to concerns for their own safety. We are even aware of an instance a few years ago where a bus load of school kids was forced to take cover as stray bullets flew overhead.

We, along with the BLM, are aware of several archaeological sites, including rock art panels, within the proposed closure area. Some of these rock art panels have been used as targets, or



otherwise damaged, by target shooters in the past. We, along with archaeological preservation groups who have been involved in the planning process, feel that the Plan Amendment will help protect these one-of-a-kind resources.

Wildfires caused by undisciplined target shooting are another major concern in the area. Over the past few years several fires have been documented as being started by target shooters. The Dump Fire, which was caused by target shooters in 2012, burned over 5,500 acres and threatened hundreds of nearby residences. Fire suppression costs by federal, state, and local agencies totaled \$2.1 million. Subsequent flooding and mudslides resulting from the unprotected fire scar damaged several homes in the nearby city of Saratoga Springs.

Large amounts of illegally dumped household trash, appliances, electronics, and other "trigger trash" have been brought into the area by target shooters or left by others and shot at as targets. Cleaning up the messes left behind is very expensive and time consuming. In addition to the unsightly nature of the garbage and litter left behind, some of the materials left behind, such as certain electronic components and concentrations of lead, pose risks to the environment.

Please see the enclosed ownership map of the area to give you an understanding of the scattered ownership and accompanying management jurisdiction challenges. As you can see, SITLA has as much, if not more, at stake than BLM regarding resource management issues impacted by undisciplined target shooting in this area. We also hope that you'll recognize that in order to implement an effective solution to these challenges it is critical that Utah County, SITLA, and the BLM implement a cohesive management strategy. This sentiment is echoed by the Utah County Sheriff's Department, who have been the "boots on the ground" dealing with many of the aforementioned issues.

We recognize that target shooting is a legitimate form of public recreation that is enjoyed by many families and individuals and we are supportive of responsible target shooting activities. We also recognize that the implementation of the Plan Amendment, along with shooting closures on SITLA lands, will inevitably disperse the public from these areas. The public needs a place where they can go to shoot and enjoy these activities. To that end, Utah County intends to develop a public shooting range on 160 acres of land which was recently deeded to the county by the BLM through the Recreation and Public Purposes Act. It is also worth noting that only one-tenth of the lands administered by BLM and SITLA in the greater Lake Mountain area are poised for formal target shooting restrictions.

We have met with the BLM and other stakeholders out on the ground several times as the Plan Amendment was being developed and assure you that our strategy has been carefully developed and refined. We have found the local BLM leadership to be very receptive to input from ourselves and other stakeholders during the development of this Plan Amendment. We feel that the BLM has done a great job of adjusting the boundaries of the proposed target shooting closure area to only include the acreage absolutely necessary to accomplish our shared goals without imposing unreasonable restrictions on the users who legitimately enjoy their use of these public lands.

Mr. Mike Nedd  
August 30, 2017  
RE: DOI-BLM-UT-W010-2015-00150-EA  
Page 3

It is our hope that this gives you a broader perspective and understanding of the gravity of this problem and the reasons why we are anxious to move forward with the BLM to implement this shared management strategy. We respectfully request your support and the expeditious approval of the Plan Amendment by the BLM's Utah State Director.

Sincerely,



---

David Ure, Director  
State of Utah School and Institutional  
Trust Lands Administration



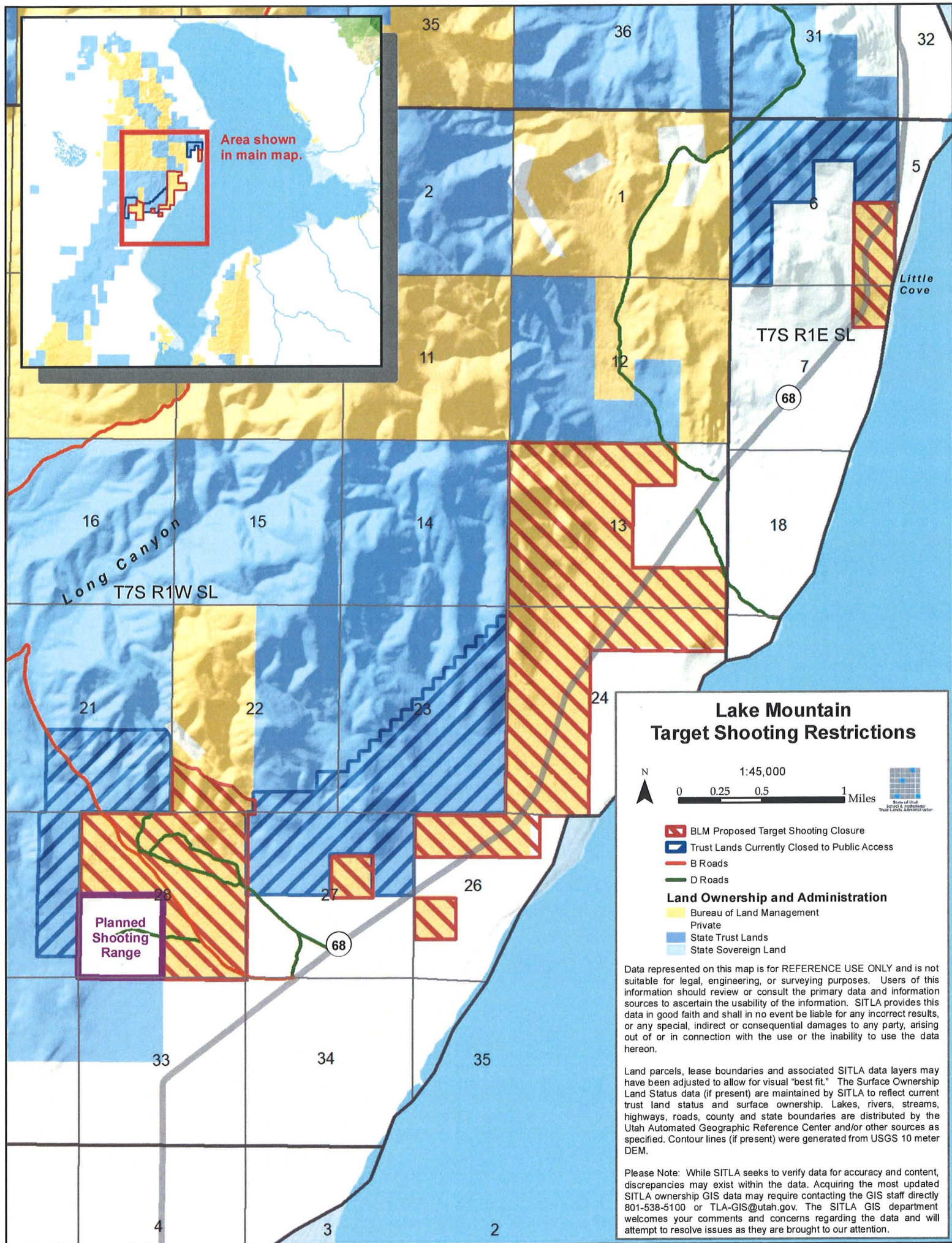
---

Bill Lee, Commission Chair  
Utah County Commission

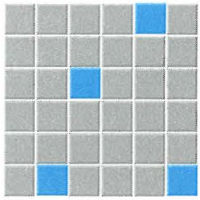
cc Ed Roberson, Utah State Director, BLM  
Kevin Oliver, West Desert District Manager, BLM  
Matthew Preston, Salt Lake Field Office Manager, BLM  
Kim Christy, Deputy Director, SITLA

Enclosure









State of Utah  
School & Institutional  
Trust Lands Administration

675 East 500 South, Suite 500  
Salt Lake City, UT 84102-2813  
801-538-5100  
801-355-0922 (Fax)  
[www.trustlands.utah.gov](http://www.trustlands.utah.gov)

Gary R. Herbert  
Governor

Spencer J. Cox  
Lieutenant Governor

David Ure  
Director

September 8, 2017

Ms. Katharine MacGregor  
Acting Assistant Secretary for Lands and Minerals  
Department of the Interior  
1849 C Street NW  
Washington, DC 20240

**RE: Environmental Assessment - DOI-BLM-UT-W010-2015-0015-EA  
Eastern Lake Mountains Target Shooting Plan Amendment, Finding of No Significant Impact**

Dear Ms. MacGregor:

We are writing on behalf of the State of Utah School and Institutional Trust Lands Administration (SITLA) and the Utah County Commission to express our strong support for the above-referenced Environmental Assessment (EA) DOI-BLM-UT-W010-2015-0015-EA for the Eastern Lake Mountains Target Shooting Plan Amendment (Plan Amendment).

The Plan Amendment currently under review by your office is a critical element of a cohesive management strategy that has been developed between the federal, state, and local government levels to address several issues related to undisciplined public target shooting in the Eastern Lake Mountains area, which is located approximately 40 miles south of Salt Lake City. The development of this Plan Amendment represents the culmination of several years of partnership between ourselves and the BLM and has included the input of local residents, state legislators, shooting sports representatives and archaeological preservation groups. The Utah County Commission has unanimously passed a resolution in favor of the Plan Amendment, to which no negative public comments were received.

One of the critical issues that will be addressed by this Plan Amendment is public safety. Given the proximity of this area to private residences, mining operations, major roadways, and a planned public shooting range, we feel that ongoing public target shooting in the proposed closure area represents a significant threat to public safety. A nearby private residence has been struck by stray bullets on more than one occasion. Many other recreational users have been displaced from this area due to concerns for their own safety. We are even aware of an instance a few years ago where a bus load of school kids was forced to take cover as stray bullets flew overhead.

We, along with the BLM, are aware of several archaeological sites, including rock art panels, within the proposed closure area. Some of these rock art panels have been used as targets, or

otherwise damaged, by target shooters in the past. We, along with archaeological preservation groups who have been involved in the planning process, feel that the Plan Amendment will help protect these one-of-a-kind resources.

Wildfires caused by undisciplined target shooting are another major concern in the area. Over the past few years several fires have been documented as being started by target shooters. The Dump Fire, which was caused by target shooters in 2012, burned over 5,500 acres and threatened hundreds of nearby residences. Fire suppression costs by federal, state, and local agencies totaled \$2.1 million. Subsequent flooding and mudslides resulting from the unprotected fire scar damaged several homes in the nearby city of Saratoga Springs.

Large amounts of illegally dumped household trash, appliances, electronics, and other "trigger trash" have been brought into the area by target shooters or left by others and shot at as targets. Cleaning up the messes left behind is very expensive and time consuming. In addition to the unsightly nature of the garbage and litter left behind, some of the materials left behind, such as certain electronic components and concentrations of lead, pose risks to the environment.

Please see the enclosed ownership map of the area to give you an understanding of the scattered ownership and accompanying management jurisdiction challenges. As you can see, SITLA has as much, if not more, at stake than BLM regarding resource management issues impacted by undisciplined target shooting in this area. We also hope that you'll recognize that in order to implement an effective solution to these challenges it is critical that Utah County, SITLA, and the BLM implement a cohesive management strategy. This sentiment is echoed by the Utah County Sheriff's Department, who have been the "boots on the ground" dealing with many of the aforementioned issues.

We recognize that target shooting is a legitimate form of public recreation that is enjoyed by many families and individuals and we are supportive of responsible target shooting activities. We also recognize that the implementation of the Plan Amendment, along with shooting closures on SITLA lands, will inevitably disperse the public from these areas. The public needs a place where they can go to shoot and enjoy these activities. To that end, Utah County intends to develop a public shooting range on 160 acres of land which was recently deeded to the county by the BLM through the Recreation and Public Purposes Act. It is also worth noting that only one-tenth of the lands administered by BLM and SITLA in the greater Lake Mountain area are poised for formal target shooting restrictions.

We have met with the BLM and other stakeholders out on the ground several times as the Plan Amendment was being developed and assure you that our strategy has been carefully developed and refined. We have found the local BLM leadership to be very receptive to input from ourselves and other stakeholders during the development of this Plan Amendment. We feel that the BLM has done a great job of adjusting the boundaries of the proposed target shooting closure area to only include the acreage absolutely necessary to accomplish our shared goals without imposing unreasonable restrictions on the users who legitimately enjoy their use of these public lands.

Ms. Katharine MacGregor  
August 30, 2017  
RE: DOI-BLM-UT-W010-2015-00150-EA  
Page 3

It is our hope that this gives you a broader perspective and understanding of the gravity of this problem and the reasons why we are anxious to move forward with the BLM to implement this shared management strategy. We respectfully request your support and the expeditious approval of the Plan Amendment by the BLM's Utah State Director.

Sincerely,



---

David Ure, Director  
State of Utah School and Institutional  
Trust Lands Administration



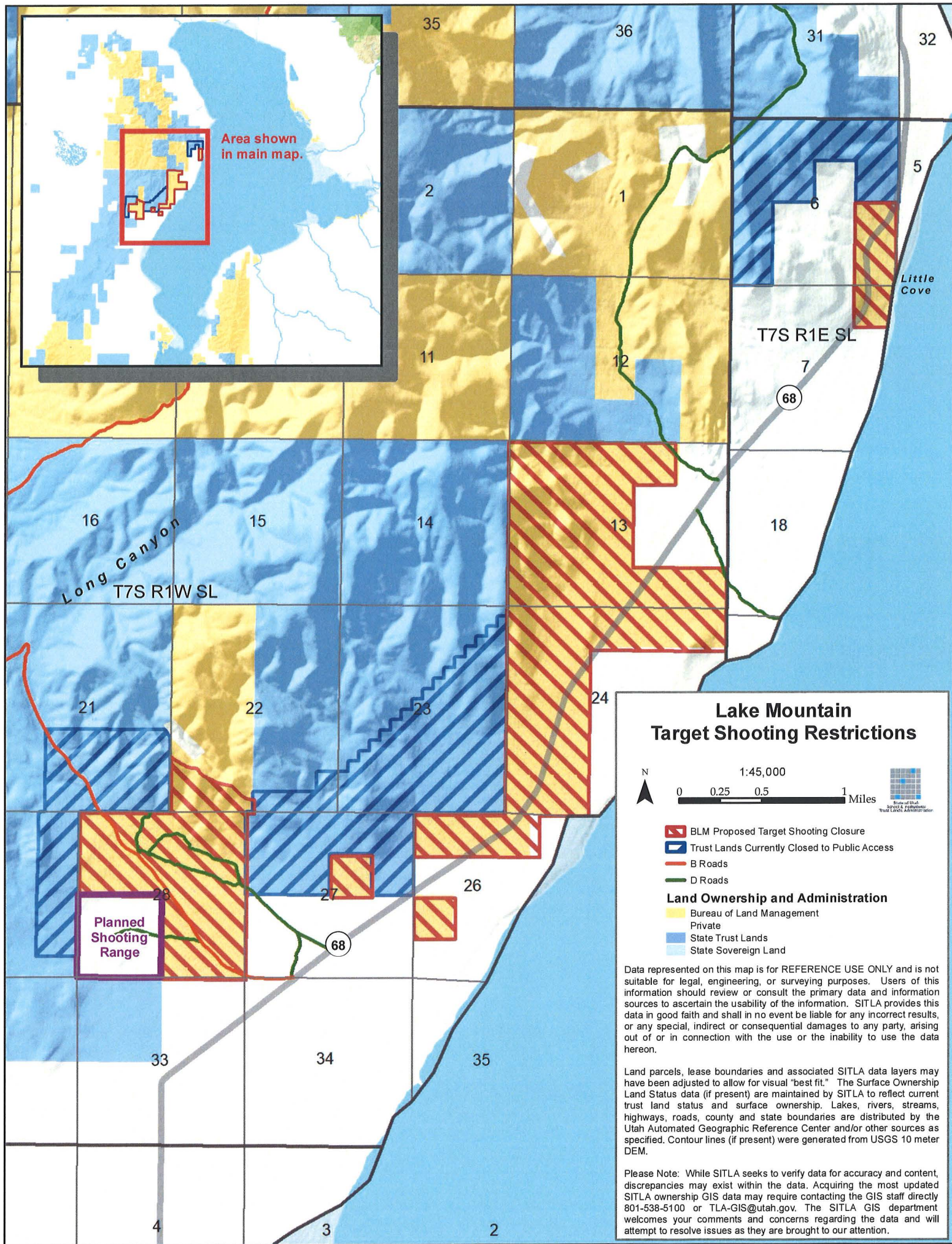
---

Bill Lee, Commission Chair  
Utah County Commission

cc Ed Roberson, Utah State Director, BLM  
Kevin Oliver, West Desert District Manager, BLM  
Matthew Preston, Salt Lake Field Office Manager, BLM  
Kim Christy, Deputy Director, SITLA

Enclosure







# Conversation Contents

Running late

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Wed Jul 19 2017 13:34:46 GMT-0600 (MDT)  
**To:** "Kathleen\_Benedetto@ios.doi.gov"  
<Kathleen\_Benedetto@ios.doi.gov>  
**Subject:** Running late

We are up in Jim Cason's office. Will be down as soon as possible. Allen Allen D. Freemyer  
3333 K Street NW, Suite 115 Washington DC 20007 202-744-2409



# Conversation Contents

**Updated Invitation: Ext. Mtg. Uintah County Commissioners from Utah @ Wed Jul 19, 2017 3:30pm - 4pm (kathleen\_benedetto@ios.doi.gov)**

## Attachments:

/28. Updated Invitation: Ext. Mtg. Uintah County Commissioners from Utah @ Wed Jul 19, 2017 3:30pm - 4pm (kathleen\_benedetto@ios.doi.gov)/1.1 invite.ics

/28. Updated Invitation: Ext. Mtg. Uintah County Commissioners from Utah @ Wed Jul 19, 2017 3:30pm - 4pm (kathleen\_benedetto@ios.doi.gov)/1.2 invite.ics

**Linda Thurn <lthurn@blm.gov>**

---

**From:** Linda Thurn <lthurn@blm.gov>  
**Sent:** Tue Jul 18 2017 16:19:54 GMT-0600 (MDT)  
**To:** kathleen\_benedetto@ios.doi.gov, iea-cynthia\_moses-nedd@ios.doi.gov, tspisak@blm.gov, cnedd@blm.gov, kbail@blm.gov  
**CC:** rjefferson@blm.gov, ymackthompson@blm.gov  
**Subject:** Updated Invitation: Ext. Mtg. Uintah County Commissioners from Utah @ Wed Jul 19, 2017 3:30pm - 4pm (kathleen\_benedetto@ios.doi.gov)  
**Attachments:** invite.ics invite.ics

This event has been changed.

## Ext. Mtg. Uintah County Commissioners from Utah

[more details »](#)

----- Forwarded message -----

From: Chris Barney  
Date: Fri, Jun 30, 2017 at 12:41 PM  
Subject: Kathy Benedetto Meeting Request for Uintah County UT Commissioners  
To: "[scheduling@blm.gov](mailto:scheduling@blm.gov)"

I would like to request a meeting with Kathy Benedetto on behalf of the Uintah County Commissioners from Utah. They will be visiting DC on July 19th and would appreciate the opportunity to meet with her on the subject of tribal issues. Would she be available to meet with them and the DC representative, Allen Freemyer?

Thank you.

Christopher Barney  
Freemyer & Associates PC  
435-881-0661  
[chris@adfpc.com](mailto:chris@adfpc.com)

When **Changed:** Wed Jul 19, 2017 3:30pm – 4pm Eastern Time

Where BLM-WO MIB RM5071 Conference Room ([map](#))

Video call [https://plus.google.com/hangouts/\\_/doi.gov/lthurn](https://plus.google.com/hangouts/_/doi.gov/lthurn)

Calendar kathleen\_benedetto@ios.doi.gov

Who

- lthurn@blm.gov - organizer, optional
- iea-cynthia\_moses-nedd@ios.doi.gov
- kathleen\_benedetto@ios.doi.gov
- tspisak@blm.gov
- cnedd@blm.gov
- kbail@blm.gov
- rjefferson@blm.gov - optional
- ymackthompson@blm.gov - optional

Going? [Yes](#) - [Maybe](#) - [No](#) [more options »](#)

Invitation from [Google Calendar](#)

You are receiving this email at the account kathleen\_benedetto@ios.doi.gov because you are subscribed for updated invitations on calendar kathleen\_benedetto@ios.doi.gov.

To stop receiving these emails, please log in to <https://www.google.com/calendar/> and change your notification settings for this calendar.

Forwarding this invitation could allow any recipient to modify your RSVP response. [Learn More](#).



# Conversation Contents

## Western Exploration

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Mon Jun 05 2017 07:49:23 GMT-0600 (MDT)  
**To:** "Kathy Benedetto (Kathleen\_Benedetto@ios.doi.gov)"  
<Kathleen\_Benedetto@ios.doi.gov>  
**Subject:** Western Exploration

Kathy,

Can we catch up via a call this week to discuss Western's issues and timing questions? My only large conflict is on Wednesday. Let me know a convenient time. Thank you. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496



# Conversation Contents

## Western Exploration

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Wed May 31 2017 13:03:54 GMT-0600 (MDT)  
**To:** "Kathy Benedetto (Kathleen\_Benedetto@ios.doi.gov)"  
<Kathleen\_Benedetto@ios.doi.gov>  
**Subject:** Western Exploration

Kathy,  
I hope you are doing well. I wanted to circle back with you re: Western Exploration. Would you have time for a call this week? Thank you. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496

## Conversation Contents

Accepted: Meeting w/Ed Cox and Allen Freemyer @ Thu Apr 27, 2017 4:30pm - 5:30pm (kathleen\_benedetto@ios.doi.gov)

**Attachments:**

/31. Accepted: Meeting w/Ed Cox and Allen Freemyer @ Thu Apr 27, 2017 4:30pm - 5:30pm (kathleen\_benedetto@ios.doi.gov)/1.1  
invite.ics  
/31. Accepted: Meeting w/Ed Cox and Allen Freemyer @ Thu Apr 27, 2017 4:30pm - 5:30pm (kathleen\_benedetto@ios.doi.gov)/1.2  
invite.ics

### BLM-WO MIB RM5071 Conference Room

<doi.gov\_63336239656638613965356230333130653530323061373066636661393463353838316633313264@resource.calendar.google.com>

**From:** BLM-WO MIB RM5071 Conference Room  
<doi.gov\_63336239656638613965356230333130653530323061373066636661393463353838316633313264@resource.calendar.google.com>  
**Sent:** Thu Apr 27 2017 06:45:27 GMT-0600 (MDT)  
**To:** <kathleen\_benedetto@ios.doi.gov>  
**Subject:** Accepted: Meeting w/Ed Cox and Allen Freemyer @ Thu Apr 27, 2017 4:30pm - 5:30pm (kathleen\_benedetto@ios.doi.gov)  
**Attachments:** invite.ics invite.ics

BLM-WO MIB RM5071 Conference Room has accepted this invitation.

#### Meeting w/Ed Cox and Allen Freemyer

Ed Cox and Allen Freemyer

**When** Thu Apr 27, 2017 4:30pm – 5:30pm Eastern Time  
**Where** BLM-WO MIB RM5653 Conference Room ([map](#))  
**Video call** [https://plus.google.com/hangouts/\\_/doi.gov/kathleen-benedetto](https://plus.google.com/hangouts/_/doi.gov/kathleen-benedetto)  
**Calendar** kathleen\_benedetto@ios.doi.gov  
**Who**

- kathleen\_benedetto@ios.doi.gov - organizer
- marshall\_critchfield@ios.doi.gov
- lthurn@blm.gov - optional
- ymackthompson@blm.gov - optional

Invitation from [Google Calendar](#)

You are receiving this email at the account kathleen\_benedetto@ios.doi.gov because you are subscribed for invitation replies on calendar kathleen\_benedetto@ios.doi.gov.

To stop receiving these emails, please log in to <https://www.google.com/calendar/> and change your notification settings for this calendar.

Forwarding this invitation could allow any recipient to modify your RSVP response. [Learn More](#).

# Conversation Contents

## Meeting

**"Cox, Ed (Hatch)" <Ed\_Cox@hatch.senate.gov>**

---

**From:** "Cox, Ed (Hatch)" <Ed\_Cox@hatch.senate.gov>  
**Sent:** Mon Apr 10 2017 11:45:12 GMT-0600 (MDT)  
**To:** "Benedetto, Kathleen" <kathleen\_benedetto@ios.doi.gov>  
**Subject:** Meeting

Kathleen,

11AM on April 27<sup>th</sup> works great for us. Does that still work for you?

Best,

Ed

**"Benedetto, Kathleen" <kathleen\_benedetto@ios.doi.gov>**

---

**From:** "Benedetto, Kathleen" <kathleen\_benedetto@ios.doi.gov>  
**Sent:** Mon Apr 10 2017 17:04:25 GMT-0600 (MDT)  
**To:** "Cox, Ed (Hatch)" <Ed\_Cox@hatch.senate.gov>, Linda Thurn <lthurn@blm.gov>  
**Subject:** Re: Meeting

Yes, I've copied Linda so she can reserve a conference room. Also Linda, can you make sure Marshall is invited. Thanks KB

On Mon, Apr 10, 2017 at 1:45 PM, Cox, Ed (Hatch) <[Ed\\_Cox@hatch.senate.gov](mailto:Ed_Cox@hatch.senate.gov)> wrote:

Kathleen,

11AM on April 27<sup>th</sup> works great for us. Does that still work for you?

Best,

Ed

--

**Kathleen Benedetto**

Special Assistant to the Secretary  
Department of the Interior  
Bureau of Land Management  
(202) 208-5934

**"Thurn, Linda" <lthurn@blm.gov>**

---

**From:** "Thurn, Linda" <lthurn@blm.gov>  
**Sent:** Tue Apr 11 2017 06:37:07 GMT-0600 (MDT)  
**To:** "Benedetto, Kathleen" <kathleen\_benedetto@ios.doi.gov>  
**CC:** "Cox, Ed (Hatch)" <Ed\_Cox@hatch.senate.gov>  
**Subject:** Re: Meeting

Yes, and you'll be in Room 5653.

Thank you,  
Linda Thurn  
Executive Assistant  
Bureau of Land Management  
WO-100  
202-208-3801

On Mon, Apr 10, 2017 at 7:04 PM, Benedetto, Kathleen <[kathleen\\_benedetto@ios.doi.gov](mailto:kathleen_benedetto@ios.doi.gov)> wrote:

Yes, I've copied Linda so she can reserve a conference room. Also Linda, can you make sure Marshall is invited. Thanks KB

On Mon, Apr 10, 2017 at 1:45 PM, Cox, Ed (Hatch) <[Ed\\_Cox@hatch.senate.gov](mailto:Ed_Cox@hatch.senate.gov)> wrote:  
Kathleen,

11AM on April 27<sup>th</sup> works great for us. Does that still work for you?

Best,

Ed

--

**Kathleen Benedetto**  
Special Assistant to the Secretary  
Department of the Interior  
Bureau of Land Management  
(202) 208-5934

**"Benedetto, Kathleen" <kathleen\_benedetto@ios.doi.gov>**

---

**From:** "Benedetto, Kathleen" <kathleen\_benedetto@ios.doi.gov>  
**Sent:** Tue Apr 11 2017 06:44:37 GMT-0600 (MDT)  
**To:** "Thurn, Linda" <lthurn@blm.gov>  
**Subject:** Re: Meeting

Thank you

On Tue, Apr 11, 2017 at 8:37 AM, Thurn, Linda <[lthurn@blm.gov](mailto:lthurn@blm.gov)> wrote:  
Yes, and you'll be in Room 5653.

Thank you,  
Linda Thurn  
Executive Assistant  
Bureau of Land Management  
WO-100  
202-208-3801

On Mon, Apr 10, 2017 at 7:04 PM, Benedetto, Kathleen <[kathleen\\_benedetto@ios.doi.gov](mailto:kathleen_benedetto@ios.doi.gov)> wrote:

Yes, I've copied Linda so she can reserve a conference room. Also Linda, can you make sure Marshall is invited. Thanks KB

On Mon, Apr 10, 2017 at 1:45 PM, Cox, Ed (Hatch) <[Ed\\_Cox@hatch.senate.gov](mailto:Ed_Cox@hatch.senate.gov)> wrote:  
Kathleen,

11AM on April 27<sup>th</sup> works great for us. Does that still work for you?

Best,

Ed

--

**Kathleen Benedetto**  
Special Assistant to the Secretary  
Department of the Interior  
Bureau of Land Management  
(202) 208-5934

--

**Kathleen Benedetto**  
Special Assistant to the Secretary  
Department of the Interior  
Bureau of Land Management  
(202) 208-5934

**"Cox, Ed (Hatch)" <[Ed\\_Cox@hatch.senate.gov](mailto:Ed_Cox@hatch.senate.gov)>**

---

**From:** "Cox, Ed (Hatch)" <[Ed\\_Cox@hatch.senate.gov](mailto:Ed_Cox@hatch.senate.gov)>  
**Sent:** Tue Apr 11 2017 07:11:23 GMT-0600 (MDT)  
**To:** "Benedetto, Kathleen" <[kathleen\\_benedetto@ios.doi.gov](mailto:kathleen_benedetto@ios.doi.gov)>  
**CC:** Linda Thurn <[lthurn@blm.gov](mailto:lthurn@blm.gov)>  
**Subject:** Re: Meeting

Ok great. Allen Freemyer will be joining me.

Sent from my iPhone

On Apr 10, 2017, at 7:04 PM, Benedetto, Kathleen <[kathleen\\_benedetto@ios.doi.gov](mailto:kathleen_benedetto@ios.doi.gov)> wrote:



Yes, I've copied Linda so she can reserve a conference room. Also Linda, can you make sure Marshall is invited. Thanks KB

On Mon, Apr 10, 2017 at 1:45 PM, Cox, Ed (Hatch) <[Ed\\_Cox@hatch.senate.gov](mailto:Ed_Cox@hatch.senate.gov)> wrote:

Kathleen,

11AM on April 27<sup>th</sup> works great for us. Does that still work for you?

Best,

Ed

--

**Kathleen Benedetto**

Special Assistant to the Secretary

Department of the Interior

Bureau of Land Management

(202) 208-5934

## Conversation Contents

**Accepted:** Meeting w/Ed Cox and Allen Freemyer @ Thu Apr 27, 2017 11am - 12pm (kathleen\_benedetto@ios.doi.gov)

**Attachments:**

/33. Accepted: Meeting w/Ed Cox and Allen Freemyer @ Thu Apr 27, 2017 11am - 12pm (kathleen\_benedetto@ios.doi.gov)/1.1 invite.ics  
/33. Accepted: Meeting w/Ed Cox and Allen Freemyer @ Thu Apr 27, 2017 11am - 12pm (kathleen\_benedetto@ios.doi.gov)/1.2 invite.ics

### BLM-WO MIB RM5653 Conference Room

**<doi.gov\_33613535653438323962306334303030636663323332356233623531623764393863633234336639@resource.calendar.google.com>**

**From:** BLM-WO MIB RM5653 Conference Room  
<doi.gov\_33613535653438323962306334303030636663323332356233623531623764393863633234336639@resource.calendar.google.com>  
**Sent:** Mon Apr 10 2017 18:54:11 GMT-0600 (MDT)  
**To:** <kathleen\_benedetto@ios.doi.gov>  
**Subject:** Accepted: Meeting w/Ed Cox and Allen Freemyer @ Thu Apr 27, 2017 11am - 12pm (kathleen\_benedetto@ios.doi.gov)  
**Attachments:** invite.ics invite.ics

BLM-WO MIB RM5653 Conference Room has accepted this invitation.

#### Meeting w/Ed Cox and Allen Freemyer

**When** Thu Apr 27, 2017 11am – 12pm Eastern Time  
**Where** BLM-WO MIB RM5653 Conference Room ([map](#))  
**Video call** [https://plus.google.com/hangouts/\\_/doi.gov/kathleen-benedetto](https://plus.google.com/hangouts/_/doi.gov/kathleen-benedetto)  
**Calendar** kathleen\_benedetto@ios.doi.gov  
**Who**

- kathleen\_benedetto@ios.doi.gov - organizer
- marshall\_critchfield@ios.doi.gov
- lthurn@blm.gov - optional
- ymackthompson@blm.gov - optional

Invitation from [Google Calendar](#)

You are receiving this email at the account kathleen\_benedetto@ios.doi.gov because you are subscribed for invitation replies on calendar kathleen\_benedetto@ios.doi.gov.

To stop receiving these emails, please log in to <https://www.google.com/calendar/> and change your notification settings for this calendar.

Forwarding this invitation could allow any recipient to modify your RSVP response. [Learn More](#).

# Conversation Contents

## Ute Tribal Issues

### Attachments:

/34. Ute Tribal Issues/1.1 uinta basin letter[3].pdf  
/34. Ute Tribal Issues/1.2 2017-03-29 Map Cover Letter.pdf  
/34. Ute Tribal Issues/1.3 UO\_03242017 Uintah Reservation Jurisdiction Map.pdf  
/34. Ute Tribal Issues/8.1 uinta basin letter[3].pdf  
/34. Ute Tribal Issues/8.2 2017-03-29 Map Cover Letter.pdf  
/34. Ute Tribal Issues/8.3 UO\_03242017 Uintah Reservation Jurisdiction Map.pdf

## Downey Magallanes <downey\_magallanes@ios.doi.gov>

---

**From:** Downey Magallanes <downey\_magallanes@ios.doi.gov>  
**Sent:** Thu Mar 30 2017 10:33:38 GMT-0600 (MDT)  
**To:** Aaron Moody <aaron.moody@sol.doi.gov>, laura.brown@sol.doi.gov, james\_schindler@ios.doi.gov, eric.shepard@sol.doi.gov, edward.keable@sol.doi.gov  
**CC:** micah\_chambers@ios.doi.gov, kathleen\_benedetto@ios.doi.gov, benjamin\_keel@ios.doi.gov, amanda\_kaster@ios.doi.gov  
**Subject:** Ute Tribal Issues  
**Attachments:** uinta basin letter[3].pdf 2017-03-29 Map Cover Letter.pdf  
UO\_03242017 Uintah Reservation Jurisdiction Map.pdf

I met with SITLA and Utah representatives this week and this topic came up. We also received this letter from members of Congress.

I also was altered to the attached letter from Grant Vaughn in the regional Solicitor's office. Can we please set up a briefing with all the necessary parties here as soon as possible?

Downey

## "Shepard, Eric" <eric.shepard@sol.doi.gov>

---

**From:** "Shepard, Eric" <eric.shepard@sol.doi.gov>  
**Sent:** Thu Mar 30 2017 12:17:44 GMT-0600 (MDT)  
**To:** Downey Magallanes <downey\_magallanes@ios.doi.gov>, James Schindler <james\_schindler@ios.doi.gov>  
"Brown, Laura" <laura.brown@sol.doi.gov>, Aaron Moody <aaron.moody@sol.doi.gov>, John Steiger <john.steiger@sol.doi.gov>, Rebekah Krispinsky

**CC:**

<rebekah.krispinsky@sol.doi.gov>, "Coen, Barbara"  
<Barbara.Coen@sol.doi.gov>, Grant Vaughn  
<grant.vaughn@sol.doi.gov>, Edward Keable  
<edward.keable@sol.doi.gov>, micah\_chambers@ios.doi.gov,  
kathleen\_benedetto@ios.doi.gov, Benjamin Keel  
<benjamin\_keel@ios.doi.gov>, "Kaster, Amanda"  
<amanda\_kaster@ios.doi.gov>

**Subject:**

Re: Ute Tribal Issues

Downey & James,

There is a large group of folks working on various aspects of these matters. It looks like there is a critical mass of folks who are available to meet this afternoon before 4:30. Should we set-up a call or meeting after the Senior Staff meeting?

Thanks,  
Eric

On Thu, Mar 30, 2017 at 12:33 PM, Downey Magallanes <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)> wrote:

I met with SITLA and Utah representatives this week and this topic came up. We also received this letter from members of Congress.

I also was altered to the attached letter from Grant Vaughn in the regional Solicitor's office. Can we please set up a briefing with all the necessary parties here as soon as possible?

Downey

--

Eric Shepard  
Associate Solicitor  
Division of Indian Affairs  
Office of the Solicitor  
Department of the Interior  
1849 C Street, NW, Rm. 6511  
Washington, DC 20240

Off. (202) 208-3233  
Fax (202) 208-4115  
[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)

This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient or the employee or agent responsible for delivery of this e-mail to the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this e-mail or its contents is strictly prohibited. If you received this e-mail in error, please notify the sender immediately and destroy all copies.

**"Magallanes, Downey" <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)>**

---

**From:** "Magallanes, Downey" <downey\_magallanes@ios.doi.gov>  
**Sent:** Thu Mar 30 2017 12:25:02 GMT-0600 (MDT)  
**To:** "Shepard, Eric" <eric.shepard@sol.doi.gov>  
James Schindler <james\_schindler@ios.doi.gov>, "Brown, Laura" <laura.brown@sol.doi.gov>, Aaron Moody <aaron.moody@sol.doi.gov>, John Steiger <john.steiger@sol.doi.gov>, Rebekah Krispinsky <rebekah.krispinsky@sol.doi.gov>, "Coen, Barbara" <Barbara.Coen@sol.doi.gov>, Grant Vaughn <grant.vaughn@sol.doi.gov>, Edward Keable <edward.keable@sol.doi.gov>, Micah Chambers <micah\_chambers@ios.doi.gov>, Kathleen Benedetto <kathleen\_benedetto@ios.doi.gov>, Benjamin Keel <benjamin\_keel@ios.doi.gov>, "Kaster, Amanda" <amanda\_kaster@ios.doi.gov>  
**CC:**  
**Subject:** Re: Ute Tribal Issues

I really appreciate the quick response but this is too short of notice for me and likely some of the other folks here. Can we ask Marigrace to help bird dog this perhaps? Thanks.

On Thu, Mar 30, 2017 at 2:17 PM, Shepard, Eric <[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)> wrote:  
Downey & James,

There is a large group of folks working on various aspects of these matters. It looks like there is a critical mass of folks who are available to meet this afternoon before 4:30. Should we set-up a call or meeting after the Senior Staff meeting?

Thanks,  
Eric

On Thu, Mar 30, 2017 at 12:33 PM, Downey Magallanes <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)> wrote:

I met with SITLA and Utah representatives this week and this topic came up. We also received this letter from members of Congress.

I also was alerted to the attached letter from Grant Vaughn in the regional Solicitor's office. Can we please set up a briefing with all the necessary parties here as soon as possible?

Downey

--  
Eric Shepard  
Associate Solicitor  
Division of Indian Affairs  
Office of the Solicitor  
Department of the Interior  
1849 C Street, NW, Rm. 6511  
Washington, DC 20240

Off. (202) 208-3233

Fax (202) 208-4115  
[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)

This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient or the employee or agent responsible for delivery of this e-mail to the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this e-mail or its contents is strictly prohibited. If you received this e-mail in error, please notify the sender immediately and destroy all copies.

--  
Downey Magallanes  
Office of the Secretary  
[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)  
202-501-0654 (desk)  
202-706-9199 (cell)

## **"Edwards, Kimberly" <[kimberly.edwards@sol.doi.gov](mailto:kimberly.edwards@sol.doi.gov)>**

---

**From:** "Edwards, Kimberly" <[kimberly.edwards@sol.doi.gov](mailto:kimberly.edwards@sol.doi.gov)>  
**Sent:** Thu Mar 30 2017 13:03:05 GMT-0600 (MDT)  
Edward Keable <[edward.keable@sol.doi.gov](mailto:edward.keable@sol.doi.gov)>, "Moody, Aaron" <[Aaron.Moody@sol.doi.gov](mailto:Aaron.Moody@sol.doi.gov)>, Amanda Kaster <[amanda\\_kaster@ios.doi.gov](mailto:amanda_kaster@ios.doi.gov)>, Barbara Coen <[barbara.coen@sol.doi.gov](mailto:barbara.coen@sol.doi.gov)>, Benjamin Keel <[benjamin\\_keel@ios.doi.gov](mailto:benjamin_keel@ios.doi.gov)>, Downey Magallanes <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)>, Grant Vaughn <[grant.vaughn@sol.doi.gov](mailto:grant.vaughn@sol.doi.gov)>, James Schindler <[james\\_schindler@ios.doi.gov](mailto:james_schindler@ios.doi.gov)>, "Steiger, John" <[john.steiger@sol.doi.gov](mailto:john.steiger@sol.doi.gov)>, Kathleen Benedetto <[kathleen\\_benedetto@ios.doi.gov](mailto:kathleen_benedetto@ios.doi.gov)>, "Brown, Laura" <[Laura.Brown@sol.doi.gov](mailto:Laura.Brown@sol.doi.gov)>, "Krispinsky, Rebekah" <[rebekah.krispinsky@sol.doi.gov](mailto:rebekah.krispinsky@sol.doi.gov)>, [micah\\_chambers@ios.doi.gov](mailto:micah_chambers@ios.doi.gov)  
**To:**  
**Subject:** Fwd: Ute Tribal Issues

Hi All,  
Time is pretty limited to meet on this tomorrow. It appears that everyone (except Amanda Kaster) is available 11:30-12:00, and then everyone is available after 5:00pm tomorrow (Friday 3/31)

I'll send the invite for 11:30 tomorrow.

Please let me know if 11:30 is not acceptable.

Thank You

Kim Edwards  
Staff Assistant, Office of the Solicitor  
US Department of the Interior  
main line: 202-208-4423  
[kimberly.edwards@sol.doi.gov](mailto:kimberly.edwards@sol.doi.gov)

*"Be kind whenever possible. It is always possible." Dalai Lama*

\*\*\*\*\*

NOTICE: This electronic mail message (including any attachments) is intended for the use of the individual or entity to which it is addressed. It may

----- Forwarded message -----

From: **Eric Shepard** <[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)>  
Date: Thu, Mar 30, 2017 at 2:45 PM  
Subject: Re: Ute Tribal Issues  
To: "Brown, Laura" <[laura.brown@sol.doi.gov](mailto:laura.brown@sol.doi.gov)>  
Cc: Kimberly Edwards <[kimberly.edwards@sol.doi.gov](mailto:kimberly.edwards@sol.doi.gov)>

Thanks Laura. This is the scheduling challenge I mentioned earlier.

Sent from my iPhone

On Mar 30, 2017, at 2:34 PM, Brown, Laura <[laura.brown@sol.doi.gov](mailto:laura.brown@sol.doi.gov)> wrote:

Kim: In Mari's absence, will you see what you can set up?

----- Forwarded message -----

From: **Magallanes, Downey** <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)>  
Date: Thu, Mar 30, 2017 at 2:25 PM  
Subject: Re: Ute Tribal Issues  
To: "Shepard, Eric" <[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)>  
Cc: James Schindler <[james\\_schindler@ios.doi.gov](mailto:james_schindler@ios.doi.gov)>, "Brown, Laura" <[laura.brown@sol.doi.gov](mailto:laura.brown@sol.doi.gov)>, Aaron Moody <[aaron.moody@sol.doi.gov](mailto:aaron.moody@sol.doi.gov)>, John Steiger <[john.steiger@sol.doi.gov](mailto:john.steiger@sol.doi.gov)>, Rebekah Krispinsky <[rebekah.krispinsky@sol.doi.gov](mailto:rebekah.krispinsky@sol.doi.gov)>, "Coen, Barbara" <[Barbara.Coen@sol.doi.gov](mailto:Barbara.Coen@sol.doi.gov)>, Grant Vaughn <[grant.vaughn@sol.doi.gov](mailto:grant.vaughn@sol.doi.gov)>, Edward Keable <[edward.keable@sol.doi.gov](mailto:edward.keable@sol.doi.gov)>, Micah Chambers <[micah\\_chambers@ios.doi.gov](mailto:micah_chambers@ios.doi.gov)>, Kathleen Benedetto <[kathleen\\_benedetto@ios.doi.gov](mailto:kathleen_benedetto@ios.doi.gov)>, Benjamin Keel <[benjamin\\_keel@ios.doi.gov](mailto:benjamin_keel@ios.doi.gov)>, "Kaster, Amanda" <[amanda\\_kaster@ios.doi.gov](mailto:amanda_kaster@ios.doi.gov)>

I really appreciate the quick response but this is too short of notice for me and likely some of the other folks here. Can we ask Marigrace to help bird dog this perhaps?  
Thanks.

On Thu, Mar 30, 2017 at 2:17 PM, Shepard, Eric <[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)> wrote:  
Downey & James,

There is a large group of folks working on various aspects of these matters. It looks like there is a critical mass of folks who are available to meet this afternoon before 4:30. Should we set-up a call or meeting after the Senior Staff meeting?

Thanks,  
Eric

On Thu, Mar 30, 2017 at 12:33 PM, Downey Magallanes <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)> wrote:

I met with SITLA and Utah representatives this week and this topic came up. We also received this letter from members of Congress.

I also was altered to the attached letter from Grant Vaughn in the regional Solicitor's office. Can we please set up a briefing with all the necessary parties here as soon as possible?

Downey

--

Eric Shepard  
Associate Solicitor  
Division of Indian Affairs  
Office of the Solicitor  
Department of the Interior  
1849 C Street, NW, Rm. 6511  
Washington, DC 20240

Off. (202) 208-3233  
Fax (202) 208-4115  
[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)

**This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient or the employee or agent responsible for delivery of this e-mail to the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this e-mail or its contents is strictly prohibited. If you received this e-mail in error, please notify the sender immediately and destroy all copies.**

--

Downey Magallanes  
Office of the Secretary  
[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)  
202-501-0654 (desk)  
202-706-9199 (cell)

--

**Laura Brown, Associate Solicitor**  
Division of Land Resources  
Office of the Solicitor  
U.S. Department of the Interior  
1849 C St., NW  
Washington, DC 20240  
Phone: 202 208-6545  
Cell: 202 359-2712  
Fax: 202 219-1792  
[Laura.Brown@sol.doi.gov](mailto:Laura.Brown@sol.doi.gov)

*Excellence - Integrity - Service*

This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of the e-mail or its contents is strictly prohibited. If you receive this e-mail in error, please notify the sender immediately and destroy all copies. Thank you.



**"Brown, Laura" <laura.brown@sol.doi.gov>**

---

**From:** "Brown, Laura" <laura.brown@sol.doi.gov>  
**Sent:** Thu Mar 30 2017 13:17:26 GMT-0600 (MDT)  
**To:** "Edwards, Kimberly" <kimberly.edwards@sol.doi.gov>  
Edward Keable <edward.keable@sol.doi.gov>, "Moody, Aaron" <Aaron.Moody@sol.doi.gov>, Amanda Kaster <amanda\_kaster@ios.doi.gov>, Barbara Coen <barbara.coen@sol.doi.gov>, Benjamin Keel <benjamin\_keel@ios.doi.gov>, Downey Magallanes <downey\_magallanes@ios.doi.gov>, Grant Vaughn <grant.vaughn@sol.doi.gov>, James Schindler <james\_schindler@ios.doi.gov>, "Steiger, John" <john.steiger@sol.doi.gov>, Kathleen Benedetto <kathleen\_benedetto@ios.doi.gov>, "Krispinsky, Rebekah" <rebekah.krispinsky@sol.doi.gov>, micah\_chambers@ios.doi.gov  
**CC:**  
**Subject:** Re: Ute Tribal Issues

Hi, All: Eric and I are going to chat at the 330 managers meeting to make sure we have the right people for the meeting--regardless we can move this to Monday or another day next week to make sure we have the right people lined up. Thank you, everyone.

On Thu, Mar 30, 2017 at 3:03 PM, Edwards, Kimberly <[kimberly.edwards@sol.doi.gov](mailto:kimberly.edwards@sol.doi.gov)> wrote:

Hi All,

Time is pretty limited to meet on this tomorrow. It appears that everyone (except Amanda Kaster) is available 11:30-12:00, and then everyone is available after 5:00pm tomorrow (Friday 3/31)

I'll send the invite for 11:30 tomorrow.

Please let me know if 11:30 is not acceptable.

Thank You

Kim Edwards  
Staff Assistant, Office of the Solicitor  
US Department of the Interior  
main line: 202-208-4423  
[kimberly.edwards@sol.doi.gov](mailto:kimberly.edwards@sol.doi.gov)

*"Be kind whenever possible. It is always possible." Dalai Lama*

\*\*\*\*\*

NOTICE: This electronic mail message (including any attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this message or its contents is strictly prohibited. If you receive this Message in error, please notify the sender immediately and destroy all copies.

----- Forwarded message -----

**From:** Eric Shepard <[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)>  
**Date:** Thu, Mar 30, 2017 at 2:45 PM  
**Subject:** Re: Ute Tribal Issues  
**To:** "Brown, Laura" <[laura.brown@sol.doi.gov](mailto:laura.brown@sol.doi.gov)>  
**Cc:** Kimberly Edwards <[kimberly.edwards@sol.doi.gov](mailto:kimberly.edwards@sol.doi.gov)>

Thanks Laura. This is the scheduling challenge I mentioned earlier.

Sent from my iPhone

On Mar 30, 2017, at 2:34 PM, Brown, Laura <[laura.brown@sol.doi.gov](mailto:laura.brown@sol.doi.gov)> wrote:

Kim: In Mari's absence, will you see what you can set up?

----- Forwarded message -----

From: **Magallanes, Downey** <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)>

Date: Thu, Mar 30, 2017 at 2:25 PM

Subject: Re: Ute Tribal Issues

To: "Shepard, Eric" <[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)>

Cc: James Schindler <[james\\_schindler@ios.doi.gov](mailto:james_schindler@ios.doi.gov)>, "Brown, Laura" <[laura.brown@sol.doi.gov](mailto:laura.brown@sol.doi.gov)>, Aaron Moody <[aaron.moody@sol.doi.gov](mailto:aaron.moody@sol.doi.gov)>, John Steiger <[john.steiger@sol.doi.gov](mailto:john.steiger@sol.doi.gov)>, Rebekah Krispinsky

<[rebekah.krispinsky@sol.doi.gov](mailto:rebekah.krispinsky@sol.doi.gov)>, "Coen, Barbara"

<[Barbara.Coen@sol.doi.gov](mailto:Barbara.Coen@sol.doi.gov)>, Grant Vaughn <[grant.vaughn@sol.doi.gov](mailto:grant.vaughn@sol.doi.gov)>, Edward Keable <[edward.keable@sol.doi.gov](mailto:edward.keable@sol.doi.gov)>, Micah Chambers

<[micah\\_chambers@ios.doi.gov](mailto:micah_chambers@ios.doi.gov)>, Kathleen Benedetto

<[kathleen\\_benedetto@ios.doi.gov](mailto:kathleen_benedetto@ios.doi.gov)>, Benjamin Keel

<[benjamin\\_keel@ios.doi.gov](mailto:benjamin_keel@ios.doi.gov)>, "Kaster, Amanda" <[amanda\\_kaster@ios.doi.gov](mailto:amanda_kaster@ios.doi.gov)>

I really appreciate the quick response but this is too short of notice for me and likely some of the other folks here. Can we ask Marigrace to help bird dog this perhaps? Thanks.

On Thu, Mar 30, 2017 at 2:17 PM, Shepard, Eric <[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)> wrote:

Downey & James,

There is a large group of folks working on various aspects of these matters. It looks like there is a critical mass of folks who are available to meet this afternoon before 4:30. Should we set-up a call or meeting after the Senior Staff meeting?

Thanks,  
Eric

On Thu, Mar 30, 2017 at 12:33 PM, Downey Magallanes <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)> wrote:

I met with SITLA and Utah representatives this week and this topic came up. We also received this letter from members of Congress.

I also was altered to the attached letter from Grant Vaughn in the regional Solicitor's office. Can we please set up a briefing with all the necessary parties here as soon as possible?

Downey

--

Eric Shepard  
Associate Solicitor  
Division of Indian Affairs  
Office of the Solicitor  
Department of the Interior  
1849 C Street, NW, Rm. 6511  
Washington, DC 20240

Off. (202) 208-3233  
Fax (202) 208-4115  
[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)

**This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient or the employee or agent responsible for delivery of this e-mail to the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this e-mail or its contents is strictly prohibited. If you received this e-mail in error, please notify the sender immediately and destroy all copies.**

--

Downey Magallanes  
Office of the Secretary  
[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)  
202-501-0654 (desk)  
202-706-9199 (cell)

--

**Laura Brown, Associate Solicitor**  
Division of Land Resources  
Office of the Solicitor  
U.S. Department of the Interior  
1849 C St., NW  
Washington, DC 20240  
Phone: 202 208-6545  
Cell: 202 359-2712  
Fax: 202 219-1792  
[Laura.Brown@sol.doi.gov](mailto:Laura.Brown@sol.doi.gov)

*Excellence - Integrity - Service*

This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of the e-mail or its contents is strictly prohibited. If you receive this e-mail in error, please notify the sender immediately and destroy all copies. Thank you.

--

**Laura Brown, Associate Solicitor**

Division of Land Resources

Office of the Solicitor

U.S. Department of the Interior

1849 C St., NW

Washington, DC 20240

Phone: 202 208-6545

Cell: 202 359-2712

Fax: 202 219-1792

[Laura.Brown@sol.doi.gov](mailto:Laura.Brown@sol.doi.gov)

*Excellence - Integrity - Service*

This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of the e-mail or its contents is strictly prohibited. If you receive this e-mail in error, please notify the sender immediately and destroy all copies. Thank you.

**Kathleen Benedetto <kathleen\_benedetto@ios.doi.gov>**

---

**From:** Kathleen Benedetto <kathleen\_benedetto@ios.doi.gov>  
**Sent:** Thu Mar 30 2017 13:41:16 GMT-0600 (MDT)  
**To:** "Brown, Laura" <laura.brown@sol.doi.gov>  
"Edwards, Kimberly" <kimberly.edwards@sol.doi.gov>, Edward Keable <edward.keable@sol.doi.gov>, "Moody, Aaron" <Aaron.Moody@sol.doi.gov>, Amanda Kaster <amanda\_kaster@ios.doi.gov>, Barbara Coen <barbara.coen@sol.doi.gov>, Benjamin Keel <benjamin\_keel@ios.doi.gov>, Downey Magallanes <downey\_magallanes@ios.doi.gov>, Grant Vaughn <grant.vaughn@sol.doi.gov>, James Schindler <james\_schindler@ios.doi.gov>, "Steiger, John" <john.steiger@sol.doi.gov>, "Krispinsky, Rebekah" <rebekah.krispinsky@sol.doi.gov>, "micah\_chambers@ios.doi.gov" <micah\_chambers@ios.doi.gov>  
**CC:**  
**Subject:** Re: Ute Tribal Issues

I will be out of the office on Monday. KB

Sent from my iPhone

On Mar 30, 2017, at 3:18 PM, Brown, Laura <[laura.brown@sol.doi.gov](mailto:laura.brown@sol.doi.gov)> wrote:

Hi, All: Eric and I are going to chat at the 330 managers meeting to make sure we have the right people for the meeting--regardless we can move this to Monday or another day next week to make sure we have the right people lined up. Thank you, everyone.

On Thu, Mar 30, 2017 at 3:03 PM, Edwards, Kimberly <[kimberly.edwards@sol.doi.gov](mailto:kimberly.edwards@sol.doi.gov)> wrote:

Hi All,

Time is pretty limited to meet on this tomorrow. It appears that everyone (except

Amanda Kaster) is available 11:30-12:00, and then everyone is available after 5:00pm tomorrow (Friday 3/31)

I'll send the invite for 11:30 tomorrow.

Please let me know if 11:30 is not acceptable.

Thank You

Kim Edwards  
Staff Assistant, Office of the Solicitor  
US Department of the Interior  
main line: 202-208-4423  
[kimberly.edwards@sol.doi.gov](mailto:kimberly.edwards@sol.doi.gov)

*"Be kind whenever possible. It is always possible." Dalai Lama*

AA

NOTICE: This electronic mail message (including any attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this message or its contents is strictly prohibited. If you receive this Message in error, please notify the sender immediately and destroy all copies.

----- Forwarded message -----

From: **Eric Shepard** <[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)>  
Date: Thu, Mar 30, 2017 at 2:45 PM  
Subject: Re: Ute Tribal Issues  
To: "Brown, Laura" <[laura.brown@sol.doi.gov](mailto:laura.brown@sol.doi.gov)>  
Cc: Kimberly Edwards <[kimberly.edwards@sol.doi.gov](mailto:kimberly.edwards@sol.doi.gov)>

Thanks Laura. This is the scheduling challenge I mentioned earlier.

Sent from my iPhone

On Mar 30, 2017, at 2:34 PM, Brown, Laura <[laura.brown@sol.doi.gov](mailto:laura.brown@sol.doi.gov)> wrote:

Kim: In Mari's absence, will you see what you can set up?

----- Forwarded message -----

From: **Magallanes, Downey** <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)>  
Date: Thu, Mar 30, 2017 at 2:25 PM  
Subject: Re: Ute Tribal Issues  
To: "Shepard, Eric" <[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)>  
Cc: James Schindler <[james\\_schindler@ios.doi.gov](mailto:james_schindler@ios.doi.gov)>, "Brown, Laura" <[laura.brown@sol.doi.gov](mailto:laura.brown@sol.doi.gov)>, Aaron Moody <[aaron.moody@sol.doi.gov](mailto:aaron.moody@sol.doi.gov)>, John Steiger <[john.steiger@sol.doi.gov](mailto:john.steiger@sol.doi.gov)>, Rebekah Krispinsky <[rebekah.krispinsky@sol.doi.gov](mailto:rebekah.krispinsky@sol.doi.gov)>, "Coen, Barbara" <[Barbara.Coen@sol.doi.gov](mailto:Barbara.Coen@sol.doi.gov)>, Grant Vaughn <[grant.vaughn@sol.doi.gov](mailto:grant.vaughn@sol.doi.gov)>, Edward Keable <[edward.keable@sol.doi.gov](mailto:edward.keable@sol.doi.gov)>, Micah Chambers <[micah\\_chambers@ios.doi.gov](mailto:micah_chambers@ios.doi.gov)>, Kathleen Benedetto <[kathleen\\_benedetto@ios.doi.gov](mailto:kathleen_benedetto@ios.doi.gov)>, Benjamin Keel <[benjamin\\_keel@ios.doi.gov](mailto:benjamin_keel@ios.doi.gov)>, "Kaster, Amanda" <[amanda\\_kaster@ios.doi.gov](mailto:amanda_kaster@ios.doi.gov)>

I really appreciate the quick response but this is too short of notice for me and likely some of the other folks here. Can we ask Marigrace to help bird dog this perhaps? Thanks.

On Thu, Mar 30, 2017 at 2:17 PM, Shepard, Eric

<[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)> wrote:

Downey & James,

There is a large group of folks working on various aspects of these matters. It looks like there is a critical mass of folks who are available to meet this afternoon before 4:30. Should we set-up a call or meeting after the Senior Staff meeting?

Thanks,  
Eric

On Thu, Mar 30, 2017 at 12:33 PM, Downey Magallanes

<[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)> wrote:

I met with SITLA and Utah representatives this week and this topic came up. We also received this letter from members of Congress.

I also was altered to the attached letter from Grant Vaughn in the regional Solicitor's office. Can we please set up a briefing with all the necessary parties here as soon as possible?

Downey

--

Eric Shepard  
Associate Solicitor  
Division of Indian Affairs  
Office of the Solicitor  
Department of the Interior  
1849 C Street, NW, Rm. 6511  
Washington, DC 20240

Off. (202) 208-3233  
Fax (202) 208-4115  
[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)

**This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient or the employee or agent responsible for delivery of this e-mail to the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this e-mail or its contents is strictly prohibited. If you received this e-mail in error, please notify the sender immediately and destroy all copies.**

--

Downey Magallanes  
Office of the Secretary  
[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)

202-501-0654 (desk)  
202-706-9199 (cell)

--

**Laura Brown, Associate Solicitor**

Division of Land Resources  
Office of the Solicitor  
U.S. Department of the Interior  
1849 C St., NW  
Washington, DC 20240  
Phone: 202 208-6545  
Cell: 202 359-2712  
Fax: 202 219-1792  
[Laura.Brown@sol.doi.gov](mailto:Laura.Brown@sol.doi.gov)

*Excellence - Integrity - Service*

This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of the e-mail or its contents is strictly prohibited. If you receive this e-mail in error, please notify the sender immediately and destroy all copies. Thank you.

--

**Laura Brown, Associate Solicitor**

Division of Land Resources  
Office of the Solicitor  
U.S. Department of the Interior  
1849 C St., NW  
Washington, DC 20240  
Phone: 202 208-6545  
Cell: 202 359-2712  
Fax: 202 219-1792  
[Laura.Brown@sol.doi.gov](mailto:Laura.Brown@sol.doi.gov)

*Excellence - Integrity - Service*

This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of the e-mail or its contents is strictly prohibited. If you receive this e-mail in error, please notify the sender immediately and destroy all copies. Thank you.

**"Brown, Laura" <laura.brown@sol.doi.gov>**

---

**From:** "Brown, Laura" <laura.brown@sol.doi.gov>

**Sent:** Thu Mar 30 2017 13:53:44 GMT-0600 (MDT)  
**To:** Kathleen Benedetto <kathleen\_benedetto@ios.doi.gov>  
**Subject:** Re: Ute Tribal Issues

Ok, we are working on setting a meeting that works for everyone.

On Thu, Mar 30, 2017 at 3:41 PM, Kathleen Benedetto <[kathleen\\_benedetto@ios.doi.gov](mailto:kathleen_benedetto@ios.doi.gov)> wrote:

I will be out of the office on Monday. KB

Sent from my iPhone

On Mar 30, 2017, at 3:18 PM, Brown, Laura <[laura.brown@sol.doi.gov](mailto:laura.brown@sol.doi.gov)> wrote:

Hi, All: Eric and I are going to chat at the 330 managers meeting to make sure we have the right people for the meeting--regardless we can move this to Monday or another day next week to make sure we have the right people lined up. Thank you, everyone.

On Thu, Mar 30, 2017 at 3:03 PM, Edwards, Kimberly <[kimberly.edwards@sol.doi.gov](mailto:kimberly.edwards@sol.doi.gov)> wrote:

Hi All,

Time is pretty limited to meet on this tomorrow. It appears that everyone (except Amanda Kaster) is available 11:30-12:00, and then everyone is available after 5:00pm tomorrow (Friday 3/31)

I'll send the invite for 11:30 tomorrow.

Please let me know if 11:30 is not acceptable.

Thank You

Kim Edwards  
Staff Assistant, Office of the Solicitor  
US Department of the Interior  
main line: 202-208-4423  
[kimberly.edwards@sol.doi.gov](mailto:kimberly.edwards@sol.doi.gov)

*"Be kind whenever possible. It is always possible." Dalai Lama*

\*\*\*\*\*

NOTICE: This electronic mail message (including any attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this message or its contents is strictly prohibited. If you receive this Message in error, please notify the sender immediately and destroy all copies.

----- Forwarded message -----

From: **Eric Shepard** <[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)>  
Date: Thu, Mar 30, 2017 at 2:45 PM  
Subject: Re: Ute Tribal Issues  
To: "Brown, Laura" <[laura.brown@sol.doi.gov](mailto:laura.brown@sol.doi.gov)>  
Cc: Kimberly Edwards <[kimberly.edwards@sol.doi.gov](mailto:kimberly.edwards@sol.doi.gov)>

Thanks Laura. This is the scheduling challenge I mentioned earlier.

Sent from my iPhone

On Mar 30, 2017, at 2:34 PM, Brown, Laura <[laura.brown@sol.doi.gov](mailto:laura.brown@sol.doi.gov)> wrote:



Kim: In Mari's absence, will you see what you can set up?

----- Forwarded message -----

From: **Magallanes, Downey** <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)>

Date: Thu, Mar 30, 2017 at 2:25 PM

Subject: Re: Ute Tribal Issues

To: "Shepard, Eric" <[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)>

Cc: James Schindler <[james\\_schindler@ios.doi.gov](mailto:james_schindler@ios.doi.gov)>, "Brown,

Laura" <[laura.brown@sol.doi.gov](mailto:laura.brown@sol.doi.gov)>, Aaron Moody

<[aaron.moody@sol.doi.gov](mailto:aaron.moody@sol.doi.gov)>, John Steiger

<[john.steiger@sol.doi.gov](mailto:john.steiger@sol.doi.gov)>, Rebekah Krispinsky

<[rebekah.krispinsky@sol.doi.gov](mailto:rebekah.krispinsky@sol.doi.gov)>, "Coen, Barbara"

<[Barbara.Coen@sol.doi.gov](mailto:Barbara.Coen@sol.doi.gov)>, Grant Vaughn

<[grant.vaughn@sol.doi.gov](mailto:grant.vaughn@sol.doi.gov)>, Edward Keable

<[edward.keable@sol.doi.gov](mailto:edward.keable@sol.doi.gov)>, Micah Chambers

<[micah\\_chambers@ios.doi.gov](mailto:micah_chambers@ios.doi.gov)>, Kathleen Benedetto

<[kathleen\\_benedetto@ios.doi.gov](mailto:kathleen_benedetto@ios.doi.gov)>, Benjamin Keel

<[benjamin\\_keel@ios.doi.gov](mailto:benjamin_keel@ios.doi.gov)>, "Kaster, Amanda"

<[amanda\\_kaster@ios.doi.gov](mailto:amanda_kaster@ios.doi.gov)>

I really appreciate the quick response but this is too short of notice for me and likely some of the other folks here. Can we ask Marigrace to help bird dog this perhaps? Thanks.

On Thu, Mar 30, 2017 at 2:17 PM, Shepard, Eric

<[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)> wrote:

Downey & James,

There is a large group of folks working on various aspects of these matters. It looks like there is a critical mass of folks who are available to meet this afternoon before 4:30. Should we set-up a call or meeting after the Senior Staff meeting?

Thanks,

Eric

On Thu, Mar 30, 2017 at 12:33 PM, Downey Magallanes

<[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)> wrote:

I met with SITLA and Utah representatives this week and this topic came up. We also received this letter from members of Congress.

I also was altered to the attached letter from Grant Vaughn in the regional Solicitor's office. Can we please set up a briefing with all the necessary parties here as soon as possible?

Downey

--

Eric Shepard

Associate Solicitor  
Division of Indian Affairs  
Office of the Solicitor  
Department of the Interior  
1849 C Street, NW, Rm. 6511  
Washington, DC 20240

Off. (202) 208-3233  
Fax (202) 208-4115  
[eric.shepard@sol.doi.gov](mailto:eric.shepard@sol.doi.gov)

**This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient or the employee or agent responsible for delivery of this e-mail to the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this e-mail or its contents is strictly prohibited. If you received this e-mail in error, please notify the sender immediately and destroy all copies.**

--

Downey Magallanes  
Office of the Secretary  
[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)  
202-501-0654 (desk)  
202-706-9199 (cell)

--

**Laura Brown, Associate Solicitor**  
Division of Land Resources  
Office of the Solicitor  
U.S. Department of the Interior  
1849 C St., NW  
Washington, DC 20240  
Phone: 202 208-6545  
Cell: 202 359-2712  
Fax: 202 219-1792  
[Laura.Brown@sol.doi.gov](mailto:Laura.Brown@sol.doi.gov)

*Excellence - Integrity - Service*

This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of the e-mail or its contents is strictly prohibited. If you receive this e-mail in error, please notify the sender immediately and destroy all copies.  
Thank you.

--

**Laura Brown, Associate Solicitor**

Division of Land Resources

Office of the Solicitor

U.S. Department of the Interior

1849 C St., NW

Washington, DC 20240

Phone: 202 208-6545

Cell: 202 359-2712

Fax: 202 219-1792

[Laura.Brown@sol.doi.gov](mailto:Laura.Brown@sol.doi.gov)

*Excellence - Integrity - Service*

This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of the e-mail or its contents is strictly prohibited. If you receive this e-mail in error, please notify the sender immediately and destroy all copies. Thank you.

--

**Laura Brown, Associate Solicitor**

Division of Land Resources

Office of the Solicitor

U.S. Department of the Interior

1849 C St., NW

Washington, DC 20240

Phone: 202 208-6545

Cell: 202 359-2712

Fax: 202 219-1792

[Laura.Brown@sol.doi.gov](mailto:Laura.Brown@sol.doi.gov)

*Excellence - Integrity - Service*

This e-mail (including attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of the e-mail or its contents is strictly prohibited. If you receive this e-mail in error, please notify the sender immediately and destroy all copies. Thank you.

---

**"Magallanes, Downey" <downey\_magallanes@ios.doi.gov>**

**From:** "Magallanes, Downey" <downey\_magallanes@ios.doi.gov>  
**Sent:** Sun Apr 02 2017 10:22:30 GMT-0600 (MDT)  
**To:** Marshall Critchfield <marshall\_critchfield@ios.doi.gov>, Kathleen Benedetto <kathleen\_benedetto@ios.doi.gov>  
**Subject:** Fwd: Ute Tribal Issues  
**Attachments:** uinta basin letter[3].pdf 2017-03-29 Map Cover Letter.pdf  
UO\_03242017 Uintah Reservation Jurisdiction Map.pdf

For the Monday meeting. Kathy I asked Marshall to come since you will be in Williamsburg.

----- Forwarded message -----

From: **Allen Freemyer** <[allen@adfpc.com](mailto:allen@adfpc.com)>

Date: Thu, Mar 30, 2017 at 12:05 PM

Subject: Ute Tribal Issues

To: "Magallanes, Downey" <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)>

Cc: "[Ed\\_Cox@hatch.senate.gov](mailto:Ed_Cox@hatch.senate.gov)" <[Ed\\_Cox@hatch.senate.gov](mailto:Ed_Cox@hatch.senate.gov)>

Downey,

As a follow-up to our meeting, we are just informed that Grant Vaughn with the Utah Solicitor's office in Salt Lake have issued the map of concern that is addressed in the attached Utah Congressional Delegation letter to the Secretary. While the map has been significantly updated and appears to address many of areas of disagreement, we still have no explanation or feedback as to why his office has failed to address other areas of concern. This has been the MO of Grant Vaughn. Their maps just magically appear without explanation. We have requested a more collaborative approach many times, only to be stonewalled and ignored. We are still waiting for a more detailed discussion with Grant Vaughn. Additionally, we have found through FOIA requests that Grant Vaughn has been intimately involved in the litigation. His involvement has even extended to assisting the Tribe in drafting court documents; even though the federal government is not a party to the litigation. We have tried to open a dialogue with his office on these issues but have been consistently turned down. We can back all of this through extensive documentation.

Again, we would ask that all Administrative actions in regard to the Ute issues be stayed until further discussion and coordination with all parties can occur. Thank you and please let me know if you have any questions or if we can provide anything further. Allen

Allen D. Freemyer

Freemyer & Associates

3333 K Street NW, Suite 115

Washington DC 20007

202-293-6496

--

Downey Magallanes

Office of the Secretary

[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)

202-501-0654 (desk)

202-706-9199 (cell)

---

**"Magallanes, Downey"** <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)>

**From:** "Magallanes, Downey" <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)>  
**Sent:** Wed Apr 05 2017 19:13:43 GMT-0600 (MDT)  
**To:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**CC:** Kathleen Benedetto <[kathleen\\_benedetto@ios.doi.gov](mailto:kathleen_benedetto@ios.doi.gov)>  
**Subject:** Re: Ute Tribal Issues

Allen,

Re-connecting you with Kathy Benedetto. I think you should come in and meet with her to fill her in.

Downey

On Thu, Mar 30, 2017 at 12:05 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Downey,

As a follow-up to our meeting, we are just informed that Grant Vaughn with the Utah Solicitor's office in Salt Lake have issued the map of concern that is addressed in the attached Utah Congressional Delegation letter to the Secretary. While the map has been significantly updated and appears to address many of areas of disagreement, we still have no explanation or feedback as to why his office has failed to address other areas of concern. This has been the MO of Grant Vaughn. Their maps just magically appear without explanation. We have requested a more collaborative approach many times, only to be stonewalled and ignored. We are still waiting for a more detailed discussion with Grant Vaughn. Additionally, we have found through FOIA requests that Grant Vaughn has been intimately involved in the litigation. His involvement has even extended to assisting the Tribe in drafting court documents; even though the federal government is not a party to the litigation. We have tried to open a dialogue with his office on these issues but have been consistently turned down. We can back all of this through extensive documentation.

Again, we would ask that all Administrative actions in regard to the Ute issues be stayed until further discussion and coordination with all parties can occur. Thank you and please let me know if you have any questions or if we can provide anything further. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496

--

Downey Magallanes  
Office of the Secretary  
[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)  
202-501-0654 (desk)  
202-706-9199 (cell)

**Kathleen Benedetto <[kathleen\\_benedetto@ios.doi.gov](mailto:kathleen_benedetto@ios.doi.gov)>**

---

**From:** Kathleen Benedetto <[kathleen\\_benedetto@ios.doi.gov](mailto:kathleen_benedetto@ios.doi.gov)>  
**Sent:** Wed Apr 05 2017 19:19:22 GMT-0600 (MDT)  
**To:** "Magallanes, Downey" <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)>  
**Subject:** Re: Ute Tribal Issues

Thanks

Sent from my iPhone

On Apr 5, 2017, at 9:13 PM, Magallanes, Downey <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)> wrote:

Allen,

Re-connecting you with Kathy Benedetto. I think you should come in and meet with her to fill her in.

Downey

On Thu, Mar 30, 2017 at 12:05 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Downey,

As a follow-up to our meeting, we are just informed that Grant Vaughn with the Utah Solicitor's office in Salt Lake have issued the map of concern that is addressed in the attached Utah Congressional Delegation letter to the Secretary. While the map has been significantly updated and appears to address many of areas of disagreement, we still have no explanation or feedback as to why his office has failed to address other areas of concern. This has been the MO of Grant Vaughn. Their maps just magically appear without explanation. We have requested a more collaborative approach many times, only to be stonewalled and ignored. We are still waiting for a more detailed discussion with Grant Vaughn. Additionally, we have found through FOIA requests that Grant Vaughn has been intimately involved in the litigation. His involvement has even extended to assisting the Tribe in drafting court documents; even though the federal government is not a party to the litigation. We have tried to open a dialogue with his office on these issues but have been consistently turned down. We can back all of this through extensive documentation.

Again, we would ask that all Administrative actions in regard to the Ute issues be stayed until further discussion and coordination with all parties can occur. Thank you and please let me know if you have any questions or if we can provide anything further. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496

--

Downey Magallanes  
Office of the Secretary  
[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)  
202-501-0654 (desk)  
202-706-9199 (cell)

**Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>**

---

**From:** Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)>  
**Sent:** Wed Apr 05 2017 19:21:53 GMT-0600 (MDT)  
**To:** "Magallanes, Downey" <[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)>  
**CC:** Kathleen Benedetto <[kathleen\\_benedetto@ios.doi.gov](mailto:kathleen_benedetto@ios.doi.gov)>  
**Subject:** Re: Ute Tribal Issues

Will do. I'm around through Tuesday noon. Let me know what works. I'm in Nevada much of next week. Thank you

Get [Outlook for iOS](#)

On Wed, Apr 5, 2017 at 9:13 PM -0400, "Magallanes, Downey"  
<[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)> wrote:

Allen,

Re-connecting you with Kathy Benedetto. I think you should come in and meet with her to fill her in.

Downey

On Thu, Mar 30, 2017 at 12:05 PM, Allen Freemyer <[allen@adfpc.com](mailto:allen@adfpc.com)> wrote:

Downey,

As a follow-up to our meeting, we are just informed that Grant Vaughn with the Utah Solicitor's office in Salt Lake have issued the map of concern that is addressed in the attached Utah Congressional Delegation letter to the Secretary. While the map has been significantly updated and appears to address many of areas of disagreement, we still have no explanation or feedback as to why his office has failed to address other areas of concern. This has been the MO of Grant Vaughn. Their maps just magically appear without explanation. We have requested a more collaborative approach many times, only to be stonewalled and ignored. We are still waiting for a more detailed discussion with Grant Vaughn. Additionally, we have found through FOIA requests that Grant Vaughn has been intimately involved in the litigation. His involvement has even extended to assisting the Tribe in drafting court documents; even though the federal government is not a party to the litigation. We have tried to open a dialogue with his office on these issues but have been consistently turned down. We can back all of this through extensive documentation.

Again, we would ask that all Administrative actions in regard to the Ute issues be stayed until further discussion and coordination with all parties can occur. Thank you and please let me know if you have any questions or if we can provide anything further. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496

--

Downey Magallanes  
Office of the Secretary  
[downey\\_magallanes@ios.doi.gov](mailto:downey_magallanes@ios.doi.gov)  
202-501-0654 (desk)  
202-706-9199 (cell)



**Congress of the United States**  
**Washington, DC 20515**

March 23, 2017

The Honorable Ryan Zinke  
Secretary of the Interior  
1849 C Street NW  
Washington DC 20240

Dear Secretary Zinke:

We write to call your attention to several matters in the Uinta Basin in eastern Utah involving multiple requests and demands by the Ute Indian Tribe of the Uintah and Ouray Reservation (the Tribe) pending before the Department of Interior (DOI). We ask that the DOI not make any decisions or further process any applications, requests, or settlement discussions regarding or related to the issues discussed below until such time as your senior positions are filled and there has been sufficient opportunity for the State of Utah, county and city governments, and our offices to fully brief you and your fellow officials on these critical issues.

Former Uncompahgre

In August of 2015, the Tribe petitioned Secretary Jewell to transfer the former Uncompahgre Reservation to the Tribe under Section 3 of the Indian Reorganization Act of 1934. As you are aware from meetings with the Utah Delegation prior to your confirmation, the Tribe is laying claim to public lands, managed by the Bureau of Land Management (BLM), which contain the richest oil and gas resources in Utah, significant grazing allotments, and a wide array of outdoor recreational opportunities. In doing so, the Tribe is clouding title to several hundred thousand acres of Utah State School Trust Lands and challenging the title to thousands of acres of private lands. We request the DOI take no action on this issue until further consultation can occur with the state, county, and city parties that may be affected by any change in status of these lands. This complex issue is of utmost importance to affected parties, and we urge your administration to make this a priority for resolution in the near future.

Ute Indian Tribe of the Uintah and Ouray Reservation Litigation

As a result of the United States Court of Appeals, 10<sup>th</sup> Circuit decisions in *Ute Indian Tribe of the Uintah and Ouray Reservation v. Utah* 790 F.3d 1000 (10<sup>th</sup> Cir. 2015) and *Ute Indian Tribe of the Uintah and Ouray Reservation v. Myton City, Utah*, 835 F.3d 1255 (10<sup>th</sup> Cir. 2016), the parties have endeavored to negotiate and enter into a Consent Decree to enable the parties to resolve jurisdictional matters within Indian Country in the Uinta Basin. As part of that effort, the Bureau of Indian Affairs (BIA) has been assisting the Tribe in conducting mapping tasks to specify the jurisdictional boundaries of Tribal interests, and the Department of Justice (DOJ) has been actively involved in settlement discussions in relation to a Consent Decree.

To date, the BIA has ignored input from parties in the lawsuit and has been unwilling to fully share information with these parties. Neither BIA nor the federal government are parties to any of the relevant litigation, yet the map BIA is preparing—known as, “Land Status of the Uintah Valley Indian Reservation, August 10, 2016”—threatens to bind the DOI in terms of ownership and jurisdictional matters. We request that no further mapping by the BIA occur until such time as your senior staffs are appointed and full briefings have occurred.



It is unclear if DOJ's involvement in the Consent Decree negotiations will result in binding the federal government, but such impact should be carefully understood before the federal government is bound to positions that have not been fully considered by the entire DOI and your administration.

We ask that these activities by the BIA be stayed until appropriate consultation occurs with the State of Utah, Uintah, Duchesne, and Wasatch Counties, Myton and Duchesne cities, and our offices.

We also ask that the state, counties, and cities be allowed to fully inform the DOJ of the effects and impacts of any Consent Decree before the DOJ formulates final decisions in relation the Consent Decree.

Additional Land Acquisitions and Conversion into Trust Applications

The Tribe has petitioned the DOI to accept into trust over 100 acres of off-reservation fee land for the use and benefit of the Tribe. These various parcels of lands purchased by the Tribe, in and around Vernal City, Utah, were patented to non-tribal persons in the late 1800s and early 1900s. These parcels have never been within the "exterior" boundaries of an Indian Reservation and are miles away from the nearest parcel of trust property held for the Tribe. We question the BIA's process and their failure to properly notify local governments. Additionally, these efforts would introduce completely new jurisdictional questions relating to Vernal City and Naples City and further complicate a very complex checkerboard pattern of existing jurisdictional disputes between the Tribe, the State of Utah, and Uintah County. Additionally, the Tribe has filed an application with the BLM White River Field Office to acquire over 2,000 acres of land in Colorado, adjacent to the state line, using their definition of the former Uncompahgre to justify such an acquisition. We urge you to stay these applications until a full briefing can be conducted for your senior staff with the impacted parties and our offices.

Thank you for consideration of these complex issues in the Uinta Basin. Decades of disputes lie behind each of these issues, and there is a great deal at stake for all parties. We look forward to working with you, your administration, the State of Utah, county and city governments, and the Tribe to find resolution to these matters. We simply ask the DOI to stay any actions on these issues until appropriate consultation occurs with state and local governments.

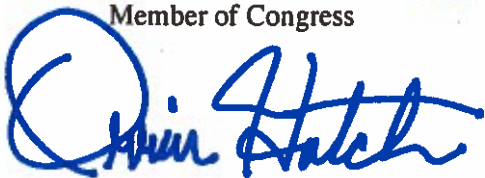
Sincerely,



Rob Bishop  
Member of Congress



Jason Chaffetz  
Member of Congress



Orrin G. Hatch  
U.S. Senator



Mike Lee  
U.S. Senator



# United States Department of the Interior

## OFFICE OF THE SOLICITOR

SUITE 6201, FEDERAL BUILDING

125 SOUTH STATE STREET

SALT LAKE CITY, UTAH 84138

March 29, 2017

Chairman Shaun Chapoose  
Ute Tribe of the Uintah & Ouray Reservation  
P.O. Box 190  
Fort Duchesne, UT 84026

Subject: Update on U&O Land Status Map

I am writing this letter to transmit the March 24, 2017 Land Status Map for the Uintah Valley portion of the Uintah & Ouray Reservation produced by the Bureau of Indian Affairs Land Title Records Office (LTRO).

Transmitted through email is an electronic version of the map, individual “shape” files for the categories of land within the Uintah Valley Indian Reservation used in the preparation of the map, and corresponding “layer” files to symbolize data to match the map.<sup>1</sup> Additionally, an enclosed table summarizes corrections to the August 10, 2016 map based on LTRO’s review of deeds and title documents submitted by the parties in the *Ute* litigation in response to my letters of August 29 and November 10, 2016.

This map and these electronic files supersede all prior land status maps and associated files of the Uintah Valley Reservation, including the August 10, 2016 map and associated electronic files. This map corrects the August 10, 2016 map based on the review of deeds or title documents submitted by the parties in the *Ute* litigation in response to my letters of August 29 and November 10, 2016.

This map depicts Indian country and non-Indian country land status in accord with *Ute Indian Tribe v. Utah*, 114 F.3d 1513 (10th Cir. 1997), *cert. denied*, 522 U.S. 1107 (1998) (*Ute V*). In accord with *Ute V*, this map includes identification and location of the unallotted land within the Uintah Valley Indian Reservation that was transferred by the United States by fee patent between

---

<sup>1</sup> **Mandatory components of the shape files**

- .shp — shape format; the feature geometry itself
- .shx — shape index format; a positional index of the feature geometry to allow seeking forwards and backwards quickly
- .dbf — attribute format; columnar attributes for each shape, in dBase IV format
- .prj — projection format; the coordinate system and projection information, a plain text

**A layer file (.lyr)** is a file that stores the path to a source dataset and symbology.

In comparison to a shapefile, a layer file is just a link/reference to actual data, such as a shapefile, feature class, etc. It is not actual data because it does not store the data’s attributes or geometry. A layer file primarily stores the symbology for a feature and other layer properties related to what is seen when the data is viewed in a GIS application.

1902 and 1945 as the result of any valid public land entry authority and that remains in fee status. The map is based on official government data in the land records system. Please note that the acreage table in the map key now is in terms of Indian country and non-Indian country. The map depicts 1,601,171.03 acres of land that is Indian country, a decrease of 181,473.06 acres from the August 10, 2016 map. This change includes correction of a math error on the August 10, 2016 map. The map depicts 870,448.75 acres of land that is non-Indian country.

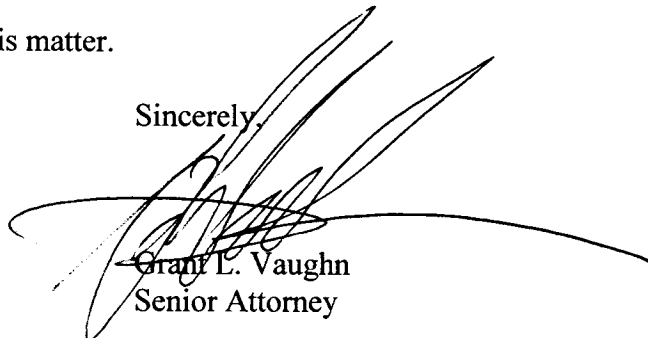
This map is a significant improvement over that prepared in 1997 in response to *Ute V*. It is in GIS format that should be readily transferable to the computer systems of other governmental entities. It is of a more precise scale and detail than the 1997 map. It reflects a comprehensive review of the applicable records in the land records system. We intend that BIA law enforcement will begin using this map in its public safety activities and hope that other parties will find that they can rely on it as well.

We hope this updated information is helpful to you. If the parties have *new* patent or deed documentation not referenced in the table that you believe changes how a particular parcel is mapped as Indian country or non-Indian country, I remain the point of contact and will transmit that information to the BIA LTRO. The party must submit the information in table format like we provided to you here, and in accord with the instructions in my letters dated August 29, and November 10, 2016. As previously requested, a GIS compliant shape file must accompany any new submission. I will share any conflicting patent or deed information you may have with our technical mapping team.

This letter and latest map update should be interpreted as a response to all the issues raised by the parties throughout this process as of today's date. If you require further clarification on any matter, you can reach me at 801-239-0542.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Grant L. Vaughn', is written over a horizontal line. The signature is stylized with a large, sweeping initial 'G'.

Grant L. Vaughn  
Senior Attorney

Enclosures:

cc:

electronic copy w/encs. sent to Counsel of Record in *Ute Indian Tribe v. Utah*, Case No. 75-cv-00408 (D. Utah)

by mail (w/o encs):

Office of the Director, BIA, Washington, D.C.

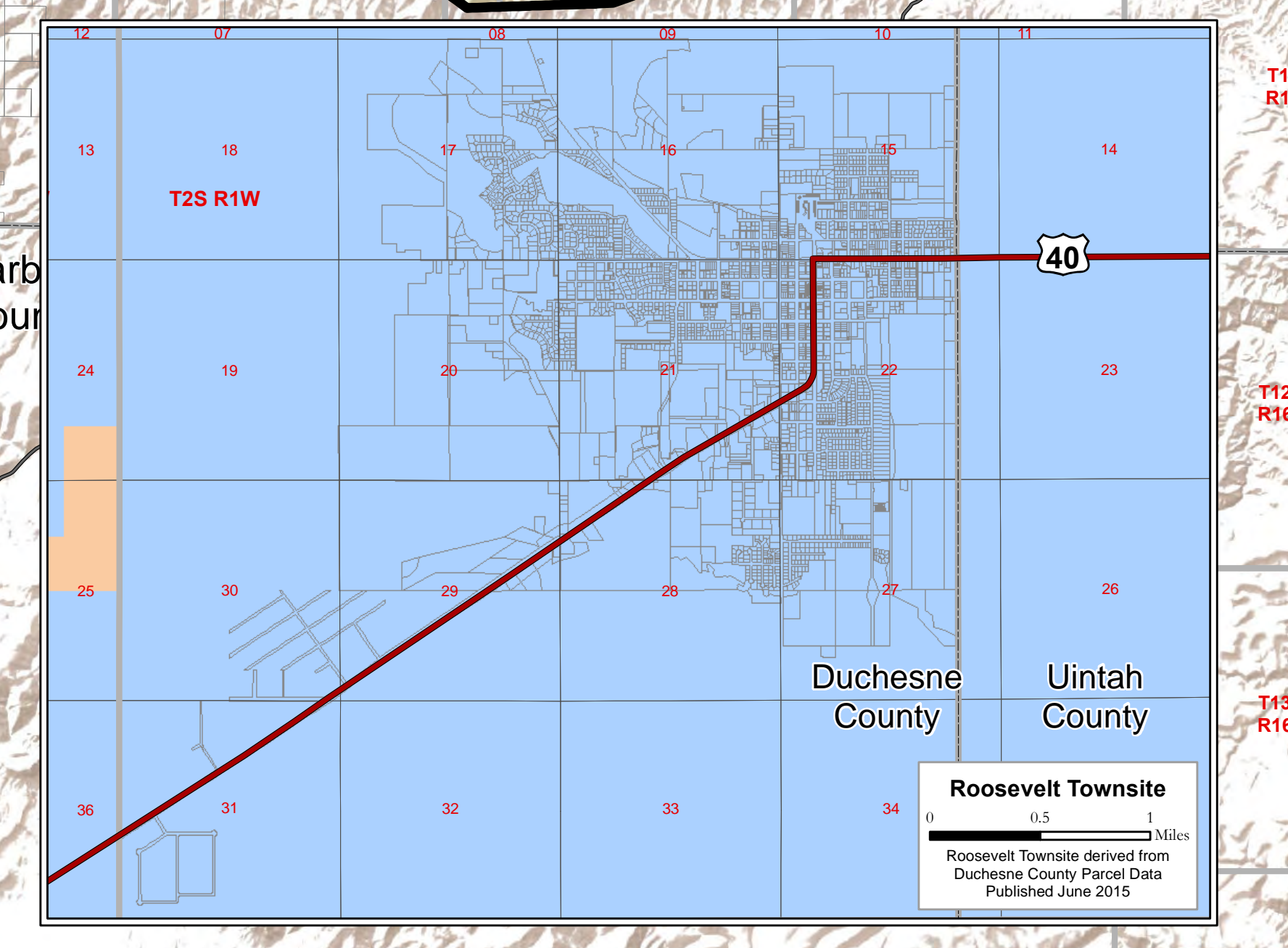
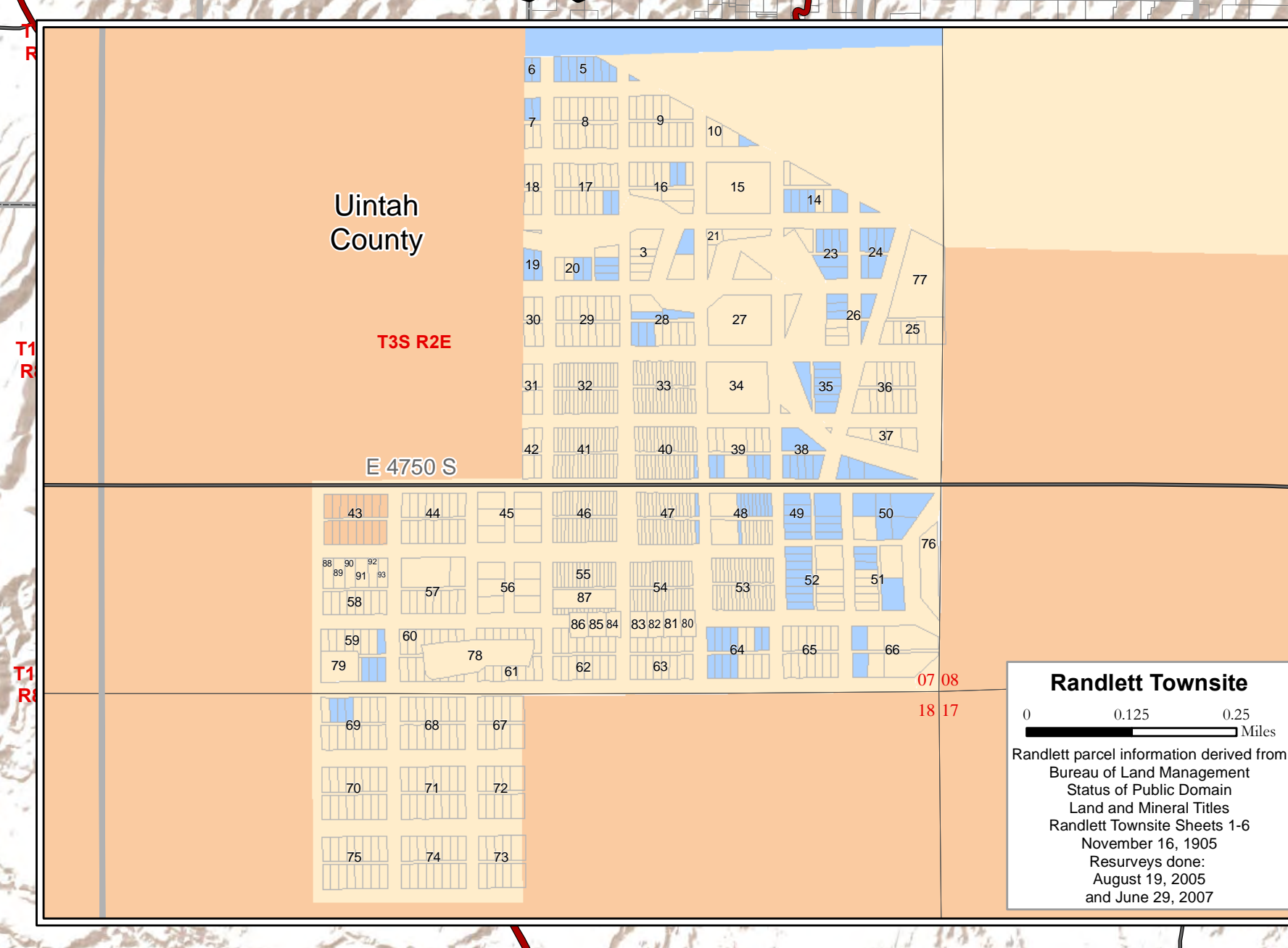
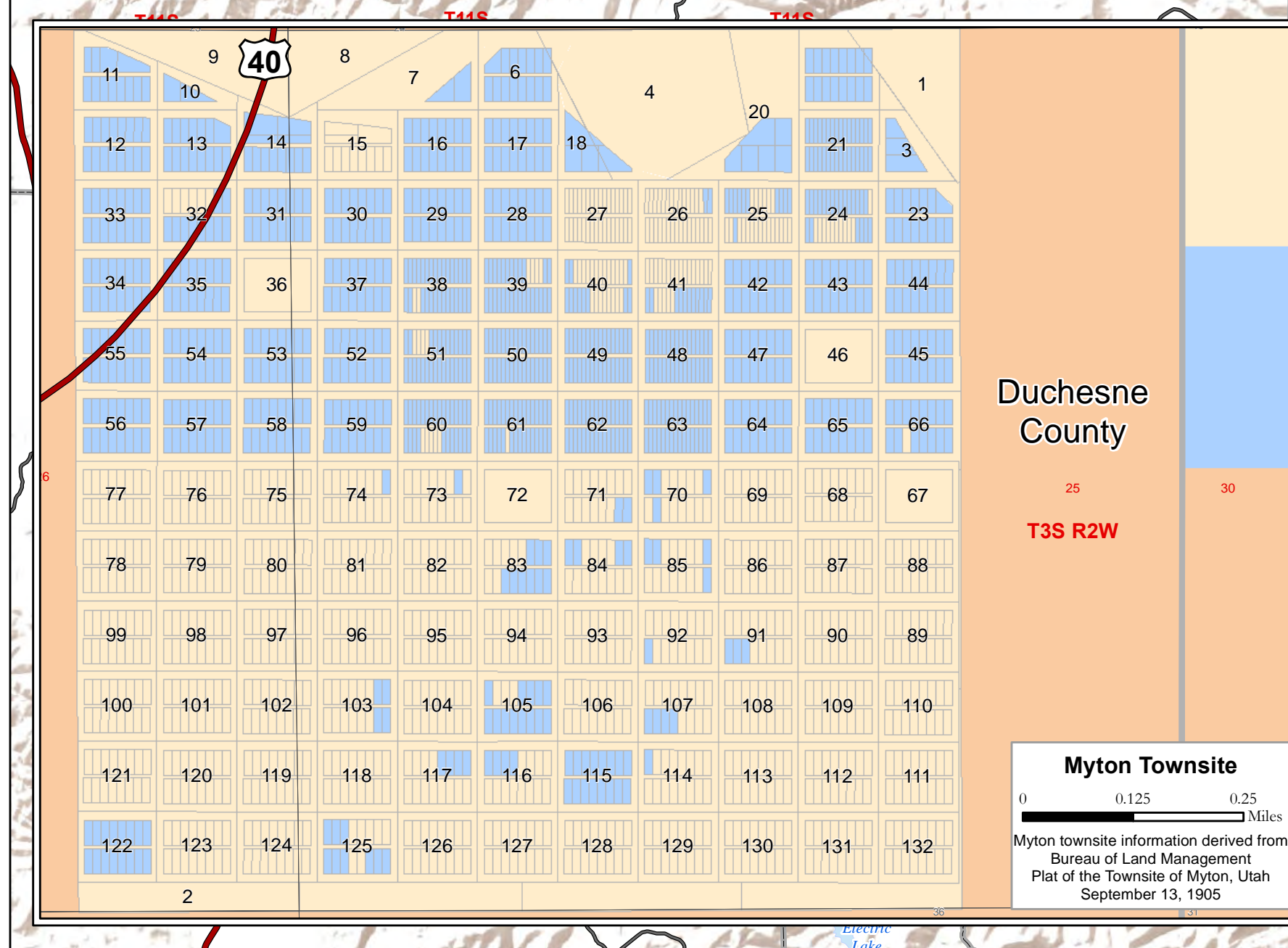
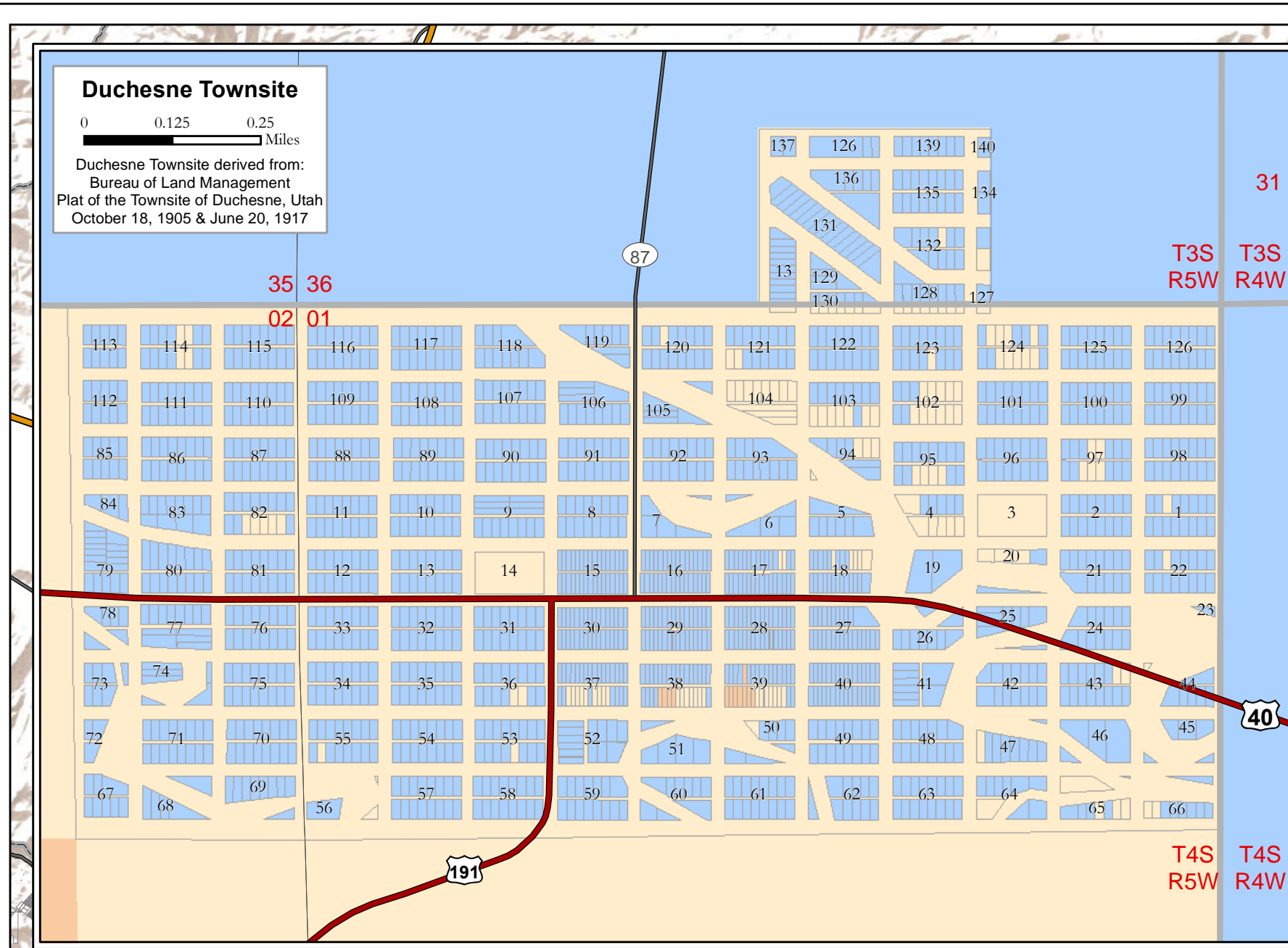
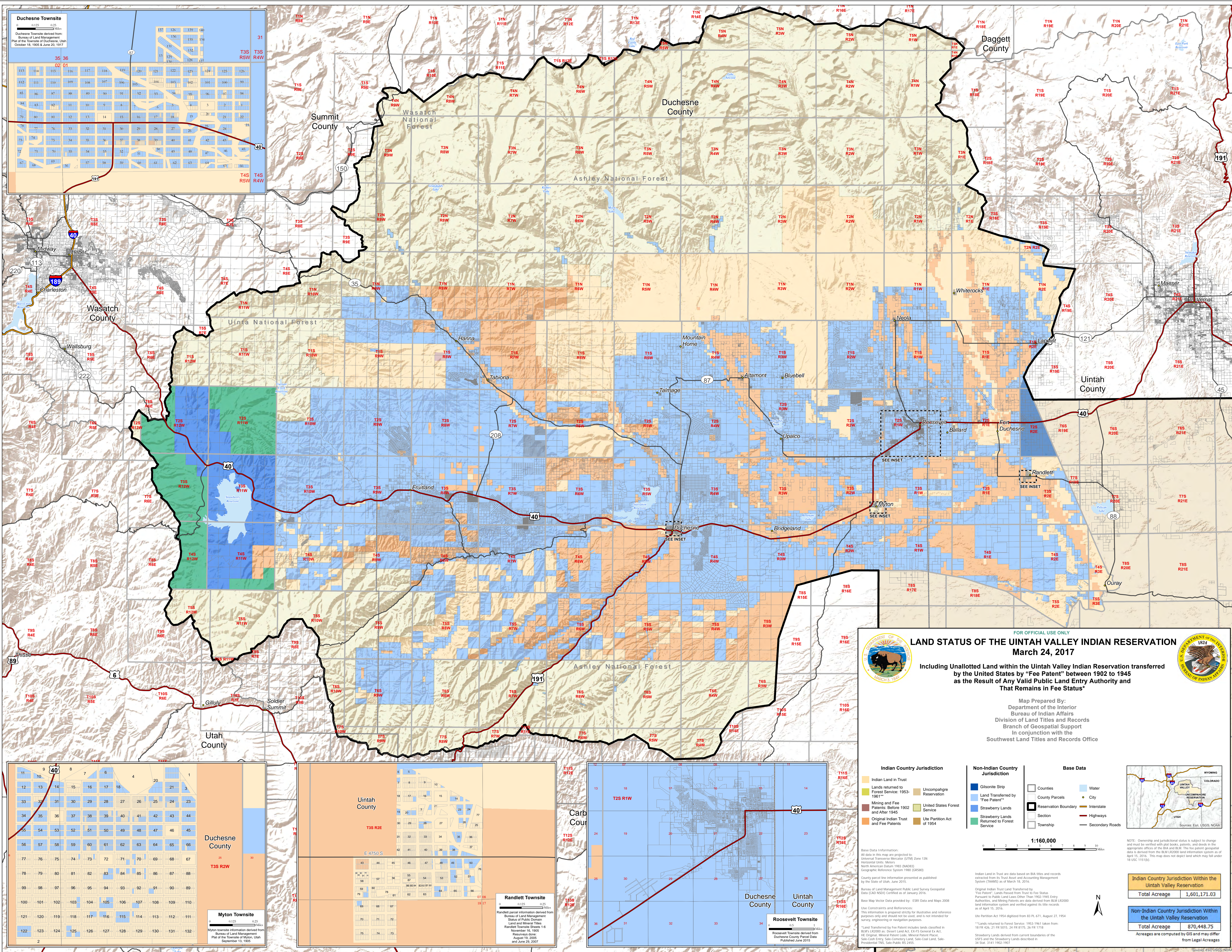
Office of Trust Services, BIA,



Acting Superintendent, U&O Agency, BIA

Regional Director, Western Region, BIA

State Director, Utah State Office, BLM







## LAND STATUS OF THE UINTAH VALLEY INDIAN RESERVATION

### March 24, 2017

Including Unallotted Land within the Uintah Valley Indian Reservation transferred by the United States by "Fee Patent" between 1902 to 1945 as the Result of Any Valid Public Land Entry Authority and That Remains in Fee Status\*

Map Prepared By:  
Department of the Interior  
Bureau of Indian Affairs  
Division of Land Titles and Records  
Branch of Geospatial Support  
In conjunction with the  
Southwest Land Titles and Records Office

#### Indian Country Jurisdiction

- Indian Land in Trust
- Lands returned to Forest Service: 1953-1961\*\*
- Mining and Fee Patents: Before 1902 and After 1945
- Original Indian Trust and Fee Patents

#### Non-Indian Country Jurisdiction

- Gilsonite Strip
- Land Transferred by "Fee Patent"
- Strawberry Lands
- Strawberry Lands Returned to Forest Service

#### Base Data

- Counties
- County Parcels
- Reservation Boundary
- Section
- Township
- Water
- City
- Interstate
- Highways
- Secondary Roads

Base Data Information:

All data in this map are projected to: Universal Transverse Mercator (UTM) Zone 13N

Horizontal Units: Meters

North American Datum 1983 (NAD83)

Geographic Reference System 1983 (GRS80)

County parcel line information presented as published by the State of Utah, June 2015

Base Map Vector Data provided by: ESRI Data and Maps 2008

Use Constraints and References:

This information is prepared strictly for illustrative and reference purposes only and should not be used, and is not intended for survey, engineering or navigation purposes.

\*Land Transferred by Fee Patent includes lands classified in BLM's L2000 as: Desert Land Act, Ex FS General & Act, H's Original, Mineral Patent Lode, Mineral Patent Placer, Sale-Cash Entry, Sale-Commodity Land, Sale-Coal Land, Sale-Presidential TNS, Sale-Public RS 2455.

\*\*Lands returned to Forest Service: 1953-1961 taken from: 18 FR 426, 21 FR 5015, 24 FR 6175, 26 FR 1718

Strawberry Lands derived from current boundaries of the USGS and the Strawberry Lands described in: 34 Stat. 3141 1902-1907

Indian Country Jurisdiction Within the Uintah Valley Reservation

Total Acreage	1,601,171.03
---------------	--------------

Non-Indian Country Jurisdiction Within the Uintah Valley Reservation

Total Acreage	870,448.75
---------------	------------

Acreages are computed by GIS and may differ from Legal Acreages

NOTE: Ownership and jurisdictional status is subject to change and must be verified with plat books, patents, and deeds in the appropriate office of the BIA and BLM. The fee patent geospatial data is derived from the BLM L2000 Land Information system as of April 15, 2016. This map does not depict land which may fall under 18 USC 1151(c).

Source: ESRI, USGS, NOAA



**Congress of the United States**  
**Washington, DC 20515**

March 23, 2017

The Honorable Ryan Zinke  
Secretary of the Interior  
1849 C Street NW  
Washington DC 20240

Dear Secretary Zinke:

We write to call your attention to several matters in the Uinta Basin in eastern Utah involving multiple requests and demands by the Ute Indian Tribe of the Uintah and Ouray Reservation (the Tribe) pending before the Department of Interior (DOI). We ask that the DOI not make any decisions or further process any applications, requests, or settlement discussions regarding or related to the issues discussed below until such time as your senior positions are filled and there has been sufficient opportunity for the State of Utah, county and city governments, and our offices to fully brief you and your fellow officials on these critical issues.

Former Uncompahgre

In August of 2015, the Tribe petitioned Secretary Jewell to transfer the former Uncompahgre Reservation to the Tribe under Section 3 of the Indian Reorganization Act of 1934. As you are aware from meetings with the Utah Delegation prior to your confirmation, the Tribe is laying claim to public lands, managed by the Bureau of Land Management (BLM), which contain the richest oil and gas resources in Utah, significant grazing allotments, and a wide array of outdoor recreational opportunities. In doing so, the Tribe is clouding title to several hundred thousand acres of Utah State School Trust Lands and challenging the title to thousands of acres of private lands. We request the DOI take no action on this issue until further consultation can occur with the state, county, and city parties that may be affected by any change in status of these lands. This complex issue is of utmost importance to affected parties, and we urge your administration to make this a priority for resolution in the near future.

Ute Indian Tribe of the Uintah and Ouray Reservation Litigation

As a result of the United States Court of Appeals, 10<sup>th</sup> Circuit decisions in *Ute Indian Tribe of the Uintah and Ouray Reservation v. Utah* 790 F.3d 1000 (10<sup>th</sup> Cir. 2015) and *Ute Indian Tribe of the Uintah and Ouray Reservation v. Myton City, Utah*, 835 F.3d 1255 (10<sup>th</sup> Cir. 2016), the parties have endeavored to negotiate and enter into a Consent Decree to enable the parties to resolve jurisdictional matters within Indian Country in the Uinta Basin. As part of that effort, the Bureau of Indian Affairs (BIA) has been assisting the Tribe in conducting mapping tasks to specify the jurisdictional boundaries of Tribal interests, and the Department of Justice (DOJ) has been actively involved in settlement discussions in relation to a Consent Decree.

To date, the BIA has ignored input from parties in the lawsuit and has been unwilling to fully share information with these parties. Neither BIA nor the federal government are parties to any of the relevant litigation, yet the map BIA is preparing—known as, “Land Status of the Uintah Valley Indian Reservation, August 10, 2016”—threatens to bind the DOI in terms of ownership and jurisdictional matters. We request that no further mapping by the BIA occur until such time as your senior staffs are appointed and full briefings have occurred.

It is unclear if DOJ's involvement in the Consent Decree negotiations will result in binding the federal government, but such impact should be carefully understood before the federal government is bound to positions that have not been fully considered by the entire DOI and your administration.

We ask that these activities by the BIA be stayed until appropriate consultation occurs with the State of Utah, Uintah, Duchesne, and Wasatch Counties, Myton and Duchesne cities, and our offices.

We also ask that the state, counties, and cities be allowed to fully inform the DOJ of the effects and impacts of any Consent Decree before the DOJ formulates final decisions in relation the Consent Decree.

Additional Land Acquisitions and Conversion into Trust Applications

The Tribe has petitioned the DOI to accept into trust over 100 acres of off-reservation fee land for the use and benefit of the Tribe. These various parcels of lands purchased by the Tribe, in and around Vernal City, Utah, were patented to non-tribal persons in the late 1800s and early 1900s. These parcels have never been within the "exterior" boundaries of an Indian Reservation and are miles away from the nearest parcel of trust property held for the Tribe. We question the BIA's process and their failure to properly notify local governments. Additionally, these efforts would introduce completely new jurisdictional questions relating to Vernal City and Naples City and further complicate a very complex checkerboard pattern of existing jurisdictional disputes between the Tribe, the State of Utah, and Uintah County. Additionally, the Tribe has filed an application with the BLM White River Field Office to acquire over 2,000 acres of land in Colorado, adjacent to the state line, using their definition of the former Uncompahgre to justify such an acquisition. We urge you to stay these applications until a full briefing can be conducted for your senior staff with the impacted parties and our offices.

Thank you for consideration of these complex issues in the Uinta Basin. Decades of disputes lie behind each of these issues, and there is a great deal at stake for all parties. We look forward to working with you, your administration, the State of Utah, county and city governments, and the Tribe to find resolution to these matters. We simply ask the DOI to stay any actions on these issues until appropriate consultation occurs with state and local governments.

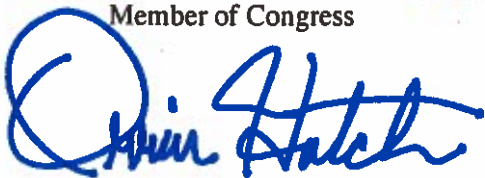
Sincerely,



Rob Bishop  
Member of Congress



Jason Chaffetz  
Member of Congress



Orrin G. Hatch  
U.S. Senator



Mike Lee  
U.S. Senator



# United States Department of the Interior

## OFFICE OF THE SOLICITOR

SUITE 6201, FEDERAL BUILDING

125 SOUTH STATE STREET

SALT LAKE CITY, UTAH 84138

March 29, 2017

Chairman Shaun Chapoose  
Ute Tribe of the Uintah & Ouray Reservation  
P.O. Box 190  
Fort Duchesne, UT 84026

Subject: Update on U&O Land Status Map

I am writing this letter to transmit the March 24, 2017 Land Status Map for the Uintah Valley portion of the Uintah & Ouray Reservation produced by the Bureau of Indian Affairs Land Title Records Office (LTRO).

Transmitted through email is an electronic version of the map, individual “shape” files for the categories of land within the Uintah Valley Indian Reservation used in the preparation of the map, and corresponding “layer” files to symbolize data to match the map.<sup>1</sup> Additionally, an enclosed table summarizes corrections to the August 10, 2016 map based on LTRO’s review of deeds and title documents submitted by the parties in the *Ute* litigation in response to my letters of August 29 and November 10, 2016.

This map and these electronic files supersede all prior land status maps and associated files of the Uintah Valley Reservation, including the August 10, 2016 map and associated electronic files. This map corrects the August 10, 2016 map based on the review of deeds or title documents submitted by the parties in the *Ute* litigation in response to my letters of August 29 and November 10, 2016.

This map depicts Indian country and non-Indian country land status in accord with *Ute Indian Tribe v. Utah*, 114 F.3d 1513 (10th Cir. 1997), *cert. denied*, 522 U.S. 1107 (1998) (*Ute V*). In accord with *Ute V*, this map includes identification and location of the unallotted land within the Uintah Valley Indian Reservation that was transferred by the United States by fee patent between

---

<sup>1</sup> **Mandatory components of the shape files**

- .shp — shape format; the feature geometry itself
- .shx — shape index format; a positional index of the feature geometry to allow seeking forwards and backwards quickly
- .dbf — attribute format; columnar attributes for each shape, in dBase IV format
- .prj — projection format; the coordinate system and projection information, a plain text

**A layer file (.lyr)** is a file that stores the path to a source dataset and symbology.

In comparison to a shapefile, a layer file is just a link\reference to actual data, such as a shapefile, feature class, etc. It is not actual data because it does not store the data’s attributes or geometry. A layer file primarily stores the symbology for a feature and other layer properties related to what is seen when the data is viewed in a GIS application.

1902 and 1945 as the result of any valid public land entry authority and that remains in fee status. The map is based on official government data in the land records system. Please note that the acreage table in the map key now is in terms of Indian country and non-Indian country. The map depicts 1,601,171.03 acres of land that is Indian country, a decrease of 181,473.06 acres from the August 10, 2016 map. This change includes correction of a math error on the August 10, 2016 map. The map depicts 870,448.75 acres of land that is non-Indian country.

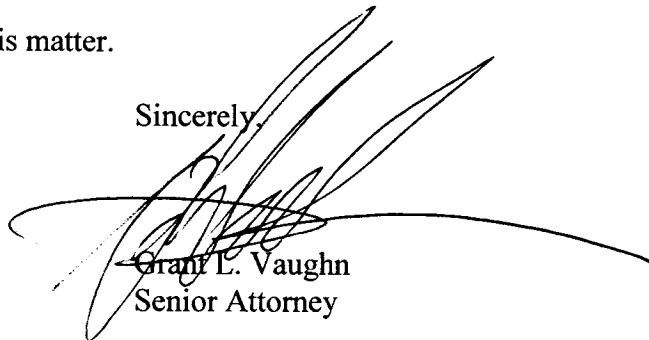
This map is a significant improvement over that prepared in 1997 in response to *Ute V*. It is in GIS format that should be readily transferable to the computer systems of other governmental entities. It is of a more precise scale and detail than the 1997 map. It reflects a comprehensive review of the applicable records in the land records system. We intend that BIA law enforcement will begin using this map in its public safety activities and hope that other parties will find that they can rely on it as well.

We hope this updated information is helpful to you. If the parties have *new* patent or deed documentation not referenced in the table that you believe changes how a particular parcel is mapped as Indian country or non-Indian country, I remain the point of contact and will transmit that information to the BIA LTRO. The party must submit the information in table format like we provided to you here, and in accord with the instructions in my letters dated August 29, and November 10, 2016. As previously requested, a GIS compliant shape file must accompany any new submission. I will share any conflicting patent or deed information you may have with our technical mapping team.

This letter and latest map update should be interpreted as a response to all the issues raised by the parties throughout this process as of today's date. If you require further clarification on any matter, you can reach me at 801-239-0542.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Grant L. Vaughn', is written over a horizontal line. The signature is stylized with long, sweeping strokes.

Grant L. Vaughn  
Senior Attorney

Enclosures:

cc:

electronic copy w/encs. sent to Counsel of Record in *Ute Indian Tribe v. Utah*, Case No. 75-cv-00408 (D. Utah)

by mail (w/o encs):

Office of the Director, BIA, Washington, D.C.

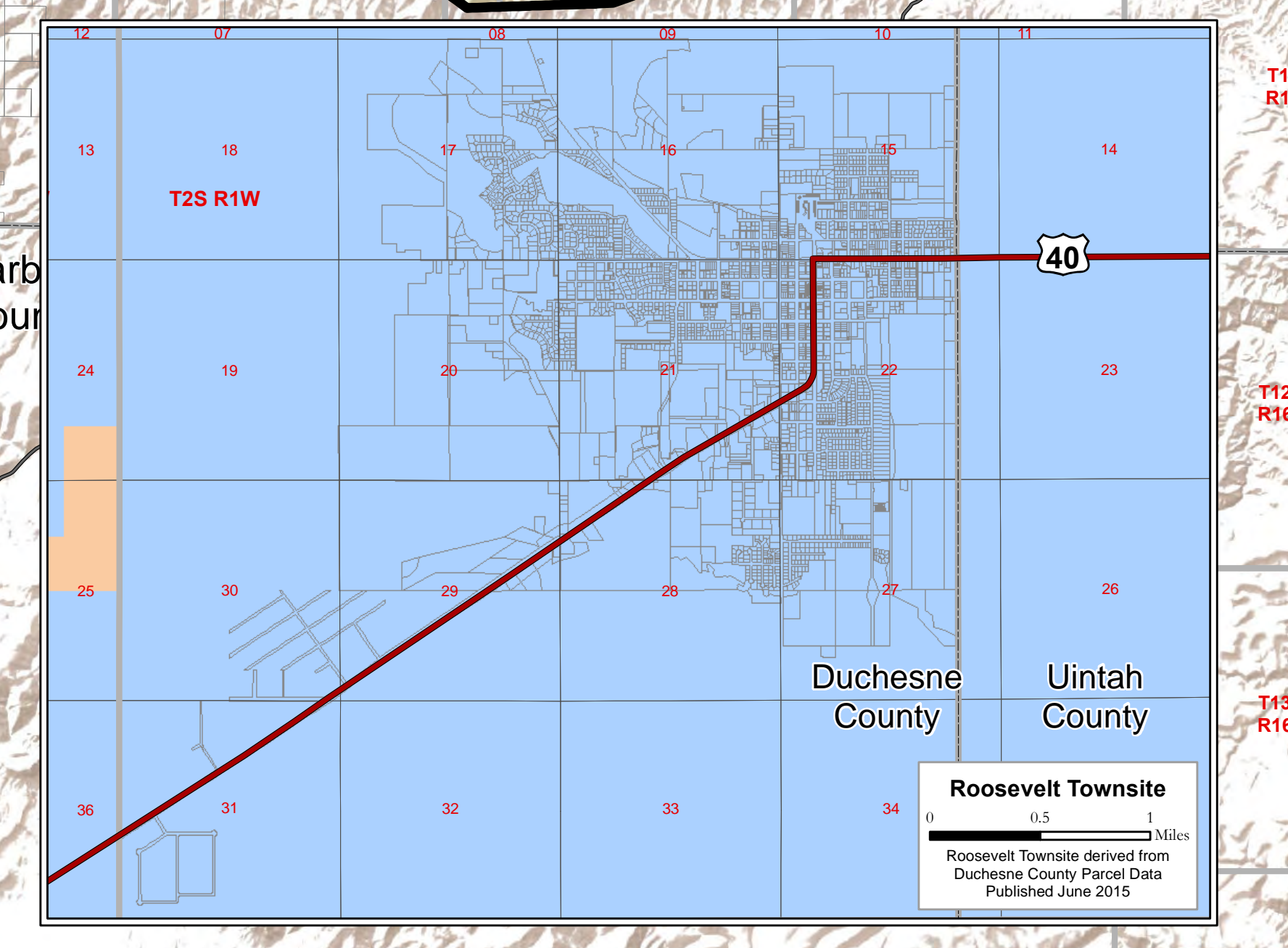
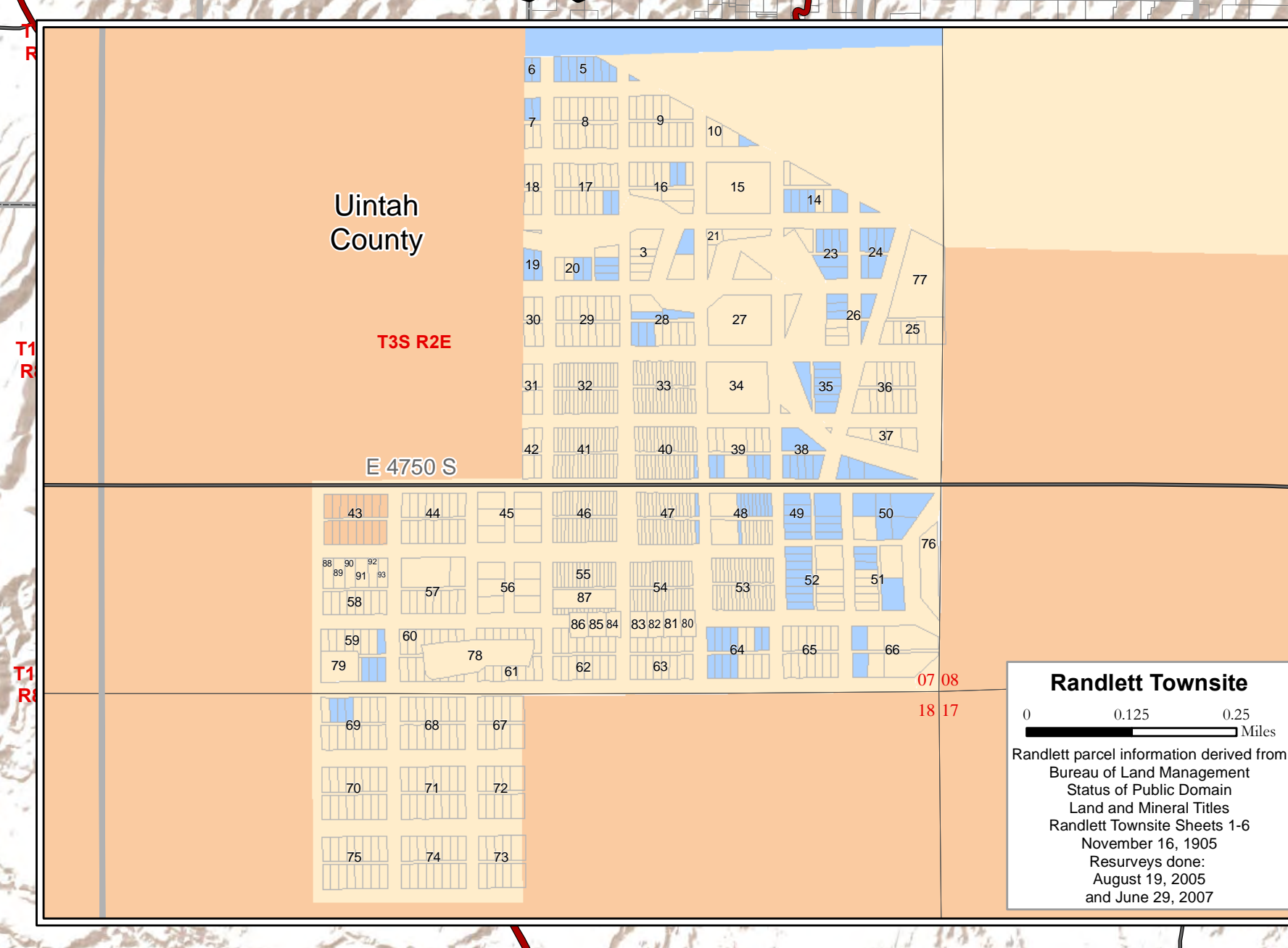
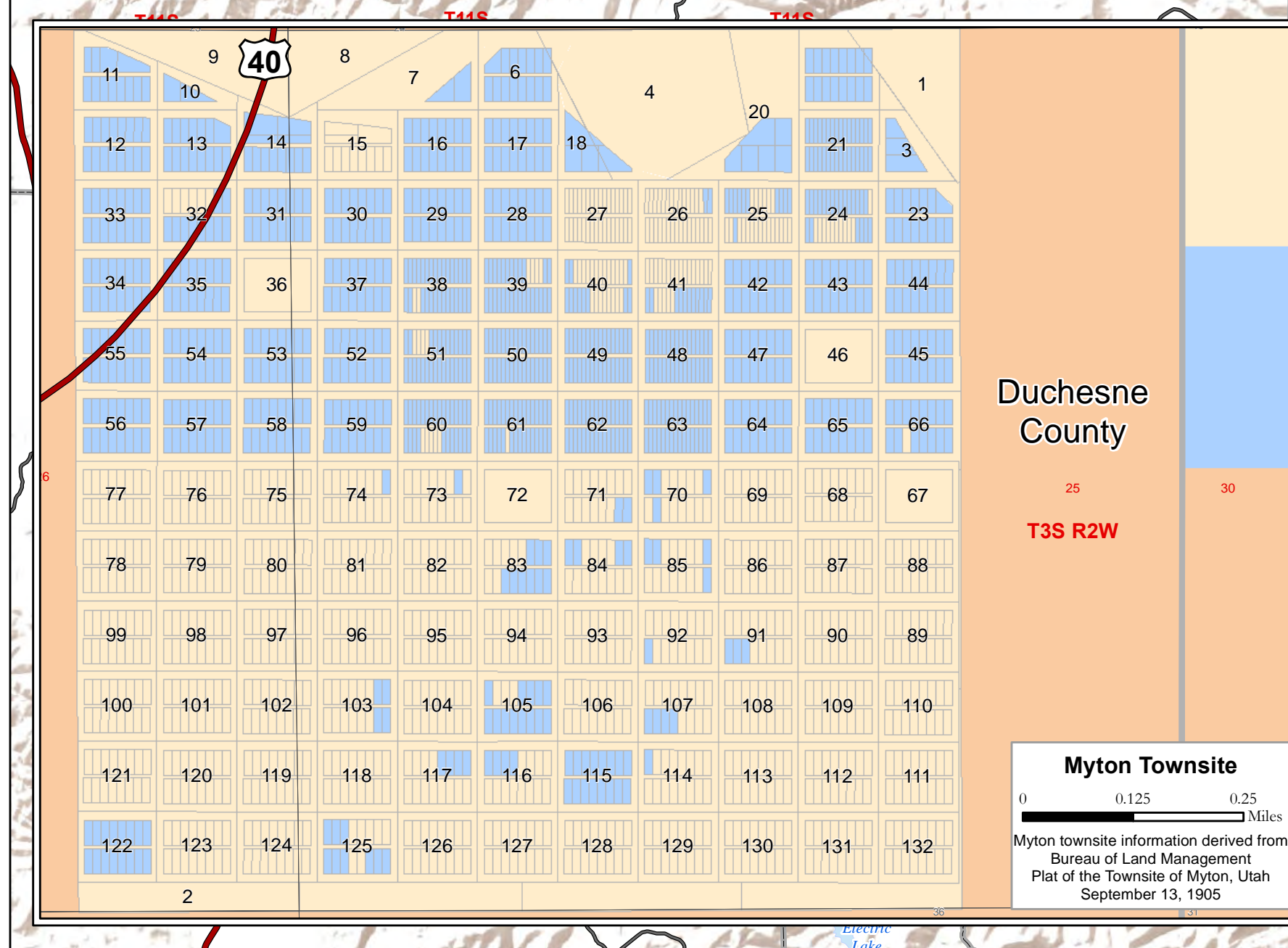
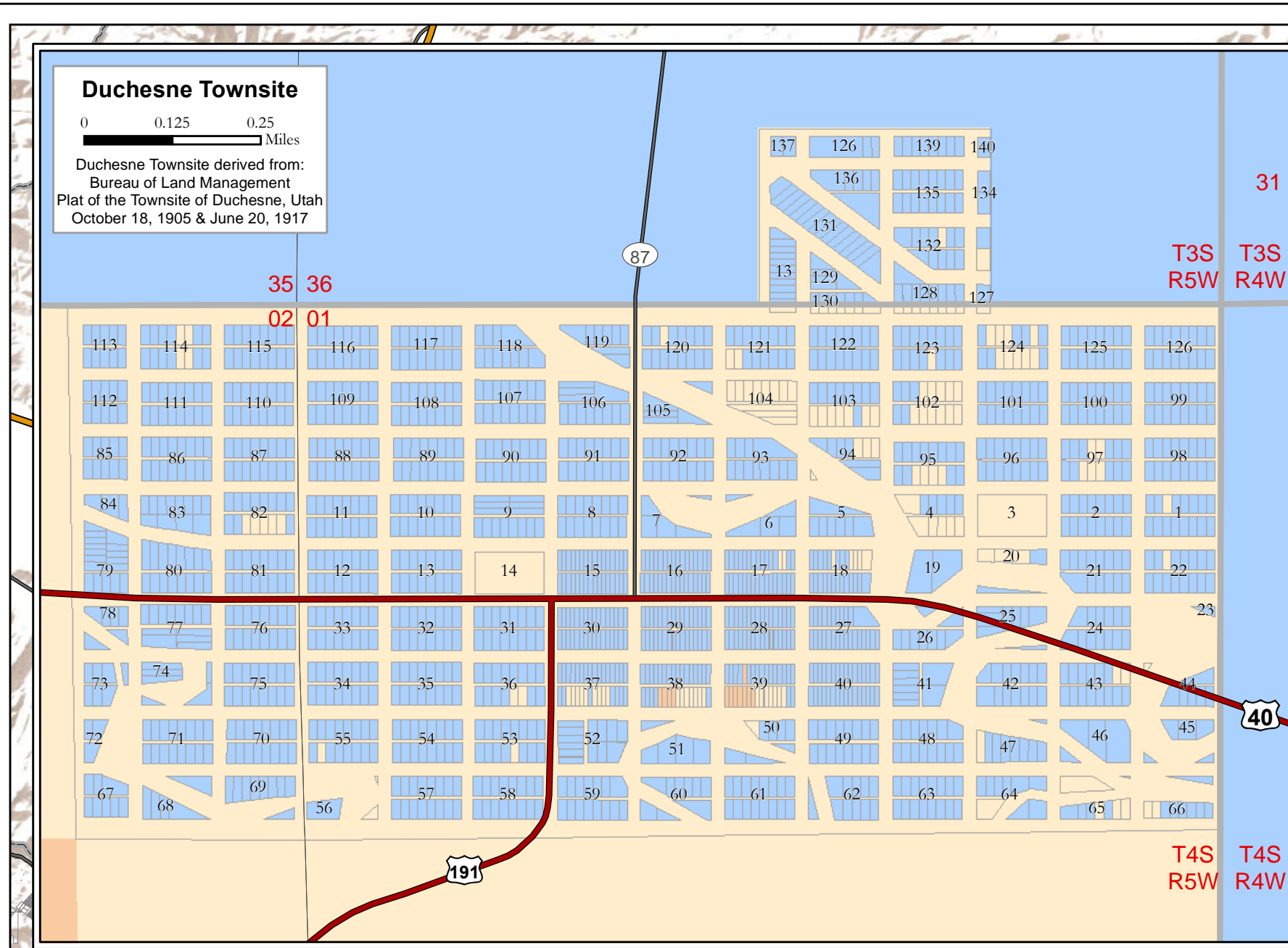
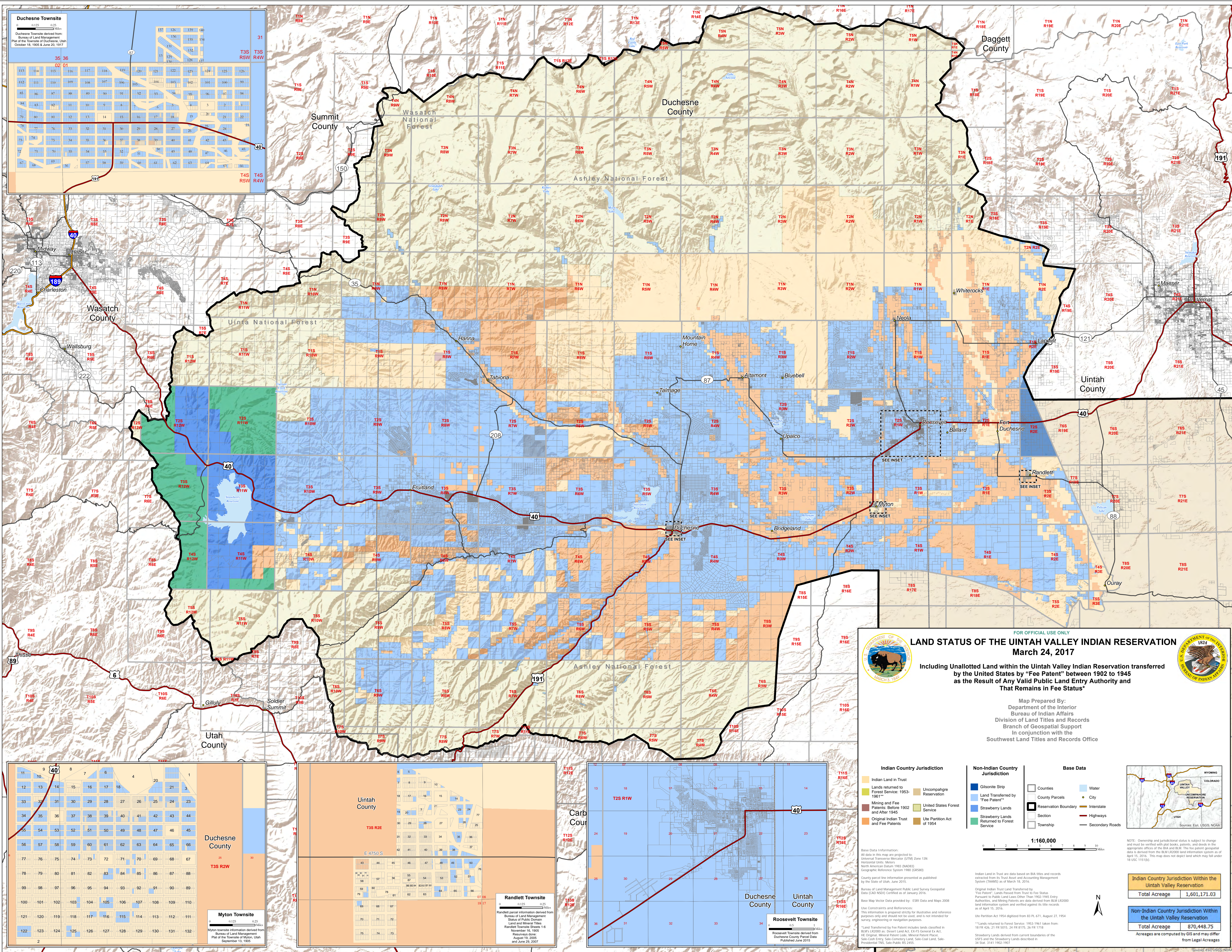
Office of Trust Services, BIA,

Acting Superintendent, U&O Agency, BIA

Regional Director, Western Region, BIA

State Director, Utah State Office, BLM





**FOR OFFICIAL USE ONLY**

**LAND STATUS OF THE UINTAH VALLEY INDIAN RESERVATION**

**March 24, 2017**

Including Unallotted Land within the Uintah Valley Indian Reservation transferred by the United States by "Fee Patent" between 1902 to 1945 as the Result of Any Valid Public Land Entry Authority and That Remains in Fee Status\*

Map Prepared By:  
Department of the Interior  
Bureau of Indian Affairs  
Division of Land Titles and Records  
Branch of Geospatial Support  
In conjunction with the  
Southwest Land Titles and Records Office

**Indian Country Jurisdiction**

- Indian Land in Trust
- Lands returned to Forest Service: 1953-1961\*\*
- Mining and Fee Patents: Before 1902 and After 1945
- Original Indian Trust and Fee Patents

**Non-Indian Country Jurisdiction**

- Gilsonite Strip
- Land Transferred by "Fee Patent"
- Strawberry Lands
- Strawberry Lands Returned to Forest Service

**Base Data**

- Counties
- County Parcels
- Reservation Boundary
- Section
- Township
- Water
- City
- Interstate
- Highways
- Secondary Roads

**Base Data Information:**  
All data in this map are projected to:  
Universal Transverse Mercator (UTM) Zone 13N  
Horizontal datum: NAD83  
Vertical datum: NAVD83  
Geographic Reference System: 1983 (GRS80)  
County parcel line information presented as published by the State of Utah, June 2015  
Bureau of Land Management Public Land Survey Geospatial Data (CAD NDS) Certified as of January 2016  
Base Map Vector Data provided by: ESRI Data and Maps 2008  
Use Constraints and References:  
This information is prepared strictly for illustrative and reference purposes only and should not be used, and is not intended for survey, engineering or navigation purposes.  
\*Land Transferred by Fee Patent includes lands classified in BLM's L2000 as: Desert Land Act, Ex FS General & Act, H's Original, Mineral Patent Lode, Mineral Patent Placer, Sale-Cash Entry, Sale-Commodity Land, Sale-Coal Land, Sale-Presidential TNS, Sale-Public RS 245.  
\*\*Lands returned to Forest Service: 1953-1961 taken from: 18 FR 426, 21 FR 5015, 24 FR 6175, 26 FR 1718  
Strawberry Lands derived from current boundaries of the USGS and the Strawberry Lands described in: 34 Stat. 3141 1902-1907

**Indian Country Jurisdiction Within the Uintah Valley Reservation**

Total Acreage	1,601,171.03
---------------	--------------

**Non-Indian Country Jurisdiction Within the Uintah Valley Reservation**

Total Acreage	870,448.75
---------------	------------

Acreages are computed by GIS and may differ from Legal Acreages

NOTE: Ownership and jurisdictional status is subject to change and must be verified with plat books, patents, and deeds in the appropriate office of the BIA and BLM. The fee patent geospatial data is derived from the BLM L2000 Land Information system as of April 15, 2016. This map does not depict land which may fall under 18 USC 1151(g).

Scale: 1:160,000

Scale: 0 1 2 3 4 5 6 7 8 9 10 Miles

Scale: 0 1 2 3 4 5 6 7 8 9 10 Miles





# Conversation Contents

## Western Exploration

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Wed Apr 05 2017 09:53:36 GMT-0600 (MDT)  
**To:** "Kathy Benedetto (Kathleen\_Benedetto@ios.doi.gov)"  
<Kathleen\_Benedetto@ios.doi.gov>  
**Subject:** Western Exploration

Kathy,  
When you return from your travels could we get together to catch up? It was kind of Marshall to take our meeting yesterday and Dan Jorjani stopped in for a few minutes which is greatly appreciated. Let me know when you might be available in the next few days. Thank you. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496

# Conversation Contents

**Sage Grouse litigation victory**

**Attachments:**

/36. Sage Grouse litigation victory/1.1 show\_temp.pl (2).pdf

**Allen Freemyer <allen@adfpc.com>**

---

**From:** Allen Freemyer <allen@adfpc.com>  
**Sent:** Mon Apr 03 2017 12:46:31 GMT-0600 (MDT)  
**To:** "Kathy Benedetto (Kathleen\_Benedetto@ios.doi.gov)"  
<Kathleen\_Benedetto@ios.doi.gov>  
**Subject:** Sage Grouse litigation victory  
**Attachments:** show\_temp.pl (2).pdf

Nevada suit—Judge Du remands back to the agency for SEIS. See you tomorrow. Allen

Allen D. Freemyer  
Freemyer & Associates  
3333 K Street NW, Suite 115  
Washington DC 20007  
202-293-6496

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

WESTERN EXPLORATION, LLC ET AL.,

Plaintiffs,

v.

U.S. DEPARTMENT OF THE INTERIOR, *et al.*,

Defendants.

Case No. 3:15-cv-00491-MMD-VPC

ORDER

(Plfs' Motion for Summary Judgment - ECF No. 67; Plfs' Motion to Supplement Record - ECF No. 68; Defs' Motion for Summary Judgment - ECF No. 75; Intervenor's Motion for Summary Judgment - ECF No. 77; Defs' Motion to Strike - ECF No. 102)

**I. SUMMARY**

Plaintiffs bring this action against the Department of the Interior ("DOI"), Bureau of Land Management ("BLM"), Department of Agriculture ("DOA"), United States Forest Service ("USFS" or "Forest Service"), and associated government officials, seeking review of two agencies' decisions to amend their resource management plans to provide greater protection to the greater-sage grouse ("GSG") species and their habitat.<sup>1</sup> In particular, Plaintiffs request that the Court enjoin the agencies from implementing these resource management plans in Nevada and that they be remanded to the agencies for further consideration.

---

<sup>1</sup>The greater-sage grouse is a sparsely populated bird that lives in sagebrush grasslands and once existed in the millions. (ECF No. 75 at 17.) However, as a result of "habitat fragmentation and loss caused by energy development, fire, agricultural conversion, and other factors, Sage-Grouse now occupy a little over half of their historic range, and the current population is estimated to be in the hundreds of thousands." (*Id.* at 17-18 (citing 75 Fed. Reg. at 13,924-62, 13,986; 80 Fed. Reg. 59,858, 59,684 (Oct. 2, 2015); WO 26162-63).)

Before the Court are five motions: (1) Plaintiffs' Motion for Summary Judgment ("Plaintiffs' Motion") (ECF No. 67); (2) Plaintiffs' Motion to Supplement Administrative Record ("Motion to Supplement") (ECF No. 68); (3) Defendants' Motion for Summary Judgment ("Defendants' Motion") (ECF No. 75); (4) Intervenor's Motion for Summary Judgment ("Intervenor's Motion") (ECF No. 77); and (5) Defendants' Motion to Strike (ECF No. 102). Plaintiffs, Defendants and Intervenor's filed responses (ECF Nos. 73, 76, 78, 82, 104) as well as replies (ECF Nos. 83, 84, 94, 105), and Plaintiffs filed a sur-reply.<sup>2</sup> (ECF No. 99). The Court held a hearing on the Motions on February 1, 2017. (ECF No. 123.)

The Court agrees with Plaintiffs that Defendants failed to comply with NEPA and remands for preparation of a supplemental environmental impact statement but denies Plaintiffs' request to enjoin implementation of the agencies' resource management plans pending remand.

## **II. BACKGROUND**

The State of Nevada, nine Nevada counties,<sup>3</sup> three mining companies,<sup>4</sup> and a privately-owned ranch<sup>5</sup> (collectively "Plaintiffs") initiated this action on September 23, 2015 to challenge BLM and USFS's (collectively "the Agencies") decisions to amend their respective Land Use and Resource Management Plans ("Plan Amendments")<sup>6</sup>. (ECF Nos. 1, 20.)

The impetus for the adoption of the Plan Amendments originated with the United States Fish and Wildlife Service ("FWS"). In March 2010, FWS issued a finding on

---

<sup>2</sup>By stipulation, Plaintiffs were permitted to file a sur-reply in response to Defendants' Motion and in support of Plaintiffs' Motion. (ECF No. 97.)

<sup>3</sup>The counties consist of Elko County, Eureka County, White Pine County, Pershing County, Lincoln County, Lander County, Humboldt County, Churchill County, and Washoe County.

<sup>4</sup>The three mining companies are Western Exploration LLC, Quantum Minerals LLC, and Paragon Precious Metals, LLC. (collectively "Mining Companies").

<sup>5</sup>The ranch is Ninety-Six Ranch, LLC ("the Ranch").

<sup>6</sup>For ease of reference, the Court will refer to BLM's Plan Amendment as "BLM Plan" and USFS's Plan Amendment as "USFS Plan."

1 petitions to list three entities of the greater sage-grouse as threatened or endangered  
2 under the Endangered Species Act (“ESA”). (75 Fed. Reg. 13910 (Mar. 23, 2010).) FWS  
3 found in part that “listing the greater sage-grouse (range wide) is warranted, but  
4 precluded by higher priority listing actions.” *Id.* at 13910. FWS further examined whether  
5 existing regulatory mechanisms available to federal agencies, such as BLM and USFS,  
6 adequately protect sage-grouse species and their habitat and found them to be mainly  
7 inadequate. *Id.* at 13979-80, 13982. In response, the Agencies began the process of  
8 planning for incorporation of sage-grouse protection measures into their land  
9 management plans. (ECF No. 75 at 18.) Ultimately, on September 16 and 21, 2015, the  
10 Agencies issued Records of Decision (“RODs”) <sup>7</sup> approving their respective  
11 management plan amendments, which govern 67 million acres of federal lands across  
12 ten western states. (NV 91784; FS 14049.)

13 The Plan Amendments guide future land and resource management decisions on  
14 lands administered by BLM and the Forest Service. (NV 91787; FS 140074.) The  
15 Amendments aim to benefit the greater-sage grouse by maintaining healthy sagebrush-  
16 steppe landscapes while simultaneously ensuring that the lands maintain multiple uses.  
17 While the Plan Amendments generally established conservation measures for future  
18 decision making, they also contain some conservation measures that were self-  
19 implementing, mandatory, or took “immediate” effect upon publication of the Plan  
20 Amendments. (NV 90715; FS 140123.) For instance, the Plan Amendments recommend  
21 but do not mandate the withdrawal of particular public lands — specifically, Sagebrush  
22 Focal Areas (“SFAs”) — from mineral entry under the General Mining Law, subject to  
23 valid existing rights. (NV 91813; FS 140069.) Consistent with the Plan Amendments,  
24 BLM petitioned the Secretary of Interior (“the Secretary”) to consider proposing a  
25 withdrawal. (WO 65706.) However, the actual withdrawal did not occur until the  
26 Secretary decided to accept BLM’s recommendation and issued a Notice of Proposed

---

27 <sup>7</sup>Management plans issued jointly by the two Agencies are commonly referred to  
28 as Land Use Plans.

1 Withdrawal and Temporary Segregation<sup>8</sup> (“Notice of Proposed Withdrawal”) on  
2 September 24, 2015, one day after Plaintiffs initiated this action. (80 Fed. Reg. 57,635  
3 (Sept. 24, 2015).) By contrast, the Plan Amendments immediately excluded nonenergy  
4 and salable mineral development on PHMA in Nevada. (NV 91814.)

5 In the First Amended Complaint (“FAC”), Plaintiffs allege that the Agencies’  
6 decisions to adopt the Plan Amendments are contrary to the National Environmental  
7 Policy Act (“NEPA”), 42 U.S.C. § 4321 *et seq.*, the Federal Land Policy and  
8 Management Act (“FLPMA”), 43 U.S.C. §§ 1701 *et seq.*, the National Forest  
9 Management Act (“NFMA”), 16 U.S.C. § 1600 *et seq.*, the Small Business Administration  
10 Regulatory Flexibility Act (“SBREFA”), 5 U.S.C. § 801 *et seq.*, the Administrative  
11 Procedure Act (“APA”), 5 U.S.C. § 551 *et seq.*, the General Mining Law, 3 U.S.C. § 21 *et*  
12 *seq.*, and the Due Process Clause of the Fifth Amendment. (ECF No. 20.)

13 Plaintiffs request that the Court enjoin the DOI and BLM from implementing the  
14 Nevada portion of the BLM Plan and enjoin the DOA and USFS from implementing the  
15 Nevada portion of the USFS Plan. (*Id.* at 3, 87-88.) In effect, Plaintiffs ask this Court to  
16 stop Defendants from taking any action that would interfere with Plaintiffs’ continued  
17 access to all Nevada lands (including federal public lands) that were open for mineral  
18 entry or other public use prior to any segregation resulting from the withdrawal of federal  
19 public lands that was recommended in the RODs. (*Id.*)

20 Plaintiffs and Defendants have filed cross-motions for summary judgment. (ECF  
21 Nos. 67. 75.) Intervenors have also moved for summary judgment, joining certain of  
22 Defendants’ arguments and asking the Court to deny Plaintiffs’ injunction request or  
23 vacatur pending remand even if the Court were to agree with Plaintiffs on the merits.  
24 (ECF No. 77.)

---

25  
26 <sup>8</sup>The Notice immediately segregated the lands from location and entry under the  
27 Mining Law until September 24, 2017, after the public decisionmaking and NEPA  
28 evaluation process to determine if and what lands are withdrawn. See 80 Fed. Reg. at  
57,635. The proposal affects only hardrock mining operations and not leasable minerals.  
See *id.*

1  
2 **III. DEFENDANTS' MOTION TO STRIKE (ECF NO. 102) AND PLAINTIFFS' MOTION TO SUPPLEMENT RECORD (ECF NO.68)**

3 **A. Motion to Strike**

4 As a threshold matter, Defendants seek to strike Exhibits 1, 2 and 6 of Plaintiffs' sur-reply (ECF No. 99), contending that the information presented is not part of the administrative record and is presented for the first time in Plaintiffs' sur-reply. (ECF No. 5 102.) Plaintiffs counter that the Court may consider extra-record information for purposes of standing and the information presented responds to the issues raised in Defendants' 6 reply. (ECF No. 104.) Plaintiffs also argue that the information in these exhibits is not "new evidence . . . but is merely responsive to, and 'provides the full context' for the 7 'selected recitation of the facts' found in Defendants' Reply." (*Id.* at 2.) However, it is Plaintiffs' burden to demonstrate standing. See *FW/PBS, Inc. v. Dallas*, 493 U.S. 215, 231 (1990). Plaintiff cannot make a general statement to support standing and then 8 provide more specific information in the sur-reply after Defendants had challenged the lack of injury to support Plaintiffs' standing. This is particularly true where the information was available to Plaintiffs during the briefing period on the pending motions. 9 10 11 12 13 14 15 16

17 The Court agrees with Defendants that the new information presented for the first time in Exhibits 1 and 2 should be stricken. As Defendants point out, except for the 18 information in Exhibit 1 relating to whether Eureka County has access to an off-site location to store gravel (in paragraph 3), Exhibit 1 responds to issues raised in 19 Defendants' Motion, which Plaintiffs should have addressed in their opposition. (ECF No. 20 105 at 2-3.) Exhibit 2 addresses White Pine County's alleged injury with respect to land disposal, but Defendants challenged this type of injury in their initial Motion. (ECF No. 21 99-2; ECF No. 75 at 26.) The Court agrees with Defendants that Plaintiffs cannot offer Exhibit 2 for the first time in their sur-reply brief. 22 23 24 25

26 Plaintiffs do not dispute that Exhibit 6 is not part of the administrative record, nor 27 does it relate to the issue of standing which permits the Court to consider extra-record materials. (ECF No. 104 at 6-7.) Plaintiffs assert that Exhibit 6 is piece of a 28



1 demonstrative evidence and shows that BLM made substantial changes to the Coates  
2 habitat map and that Plaintiffs discussed an identical map in their reply. (*Id.*) The Court  
3 agrees with Defendants that Exhibit 6 is not part of the administrative record and does  
4 not fall within any exception for consideration of extra-record materials. Moreover, it is  
5 also new information offered for the first time in Plaintiffs' sur-reply.

6 The Court declines to strike paragraphs 1 through 3 in Exhibit 1 but will grant  
7 Defendant's request to strike the remainder of Exhibit 1 and to strike Exhibits 2 and 6.

#### 8 **B. Motion to Supplement Record**

9 The Court agrees with Defendants that the documents Plaintiffs seek to be  
10 included with the administrative record are not appropriate for supplementation. In any  
11 event, because the Court remands the RODs to the Agencies, the Court denies  
12 Plaintiffs' motion as moot.

#### 13 **IV. MOTIONS FOR SUMMARY JUDGMENT**

14 Defendants insist that Plaintiffs' claims are not justiciable because (1) the  
15 withdrawal of lands for mineral entry was a separate process from the Plan  
16 Amendments, (2) Plaintiffs lack standing and (3) Plaintiffs' claims are not ripe. (ECF No.  
17 75 at 22-34.) Defendants further argue that Plaintiffs' claims fail on the merits. Plaintiffs  
18 disagree. The Court will address the threshold issues first before reaching the merits.

19 As an initial matter, the standard for summary judgment applies to the threshold  
20 issues raised in Defendants' Motion. That is, in evaluating a summary judgment motion,  
21 the court views all facts and draws all inferences in the light most favorable to the  
22 nonmoving party. *Kaiser Cement Corp. v. Fishbach & Moore, Inc.*, 793 F.2d 1100, 1103  
23 (9th Cir. 1986). The moving party bears the burden of showing that there are no genuine  
24 issues of material fact. *Zoslaw v. MCA Distrib. Corp.* 693 F.2d 870, 883 (9th Cir. 1982).  
25 Once the moving party satisfies Rule 56's requirements, the burden shifts to the party  
26 resisting the motion to "set forth specific facts showing that there is a genuine issue for  
27 trial." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 256 (1986). The nonmoving party  
28 "may not rely on denials in the pleadings but must produce specific evidence, through

1 affidavits or admissible discovery material, to show that the dispute exists,” *Bhan v. NME*  
 2 *Hosp., Inc.*, 929 F.2d 1404, 1409 (9th Cir. 1991), and “must do more than simply show  
 3 that there is some metaphysical doubt as to the material facts,” *Orr v. Bank of Am.*, 285  
 4 F.3d 764, 783 (9th Cir. 2002) (quoting *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*,  
 5 475 U.S. 574, 586 (1986)).

#### 6 **A. Justiciability of Claims Stemming from Notice of Proposed** 7 **Withdrawal**

8 The Mining Companies and several of the other Plaintiffs allege injuries that arise  
 9 from the Notice of Proposed Withdrawal, which resulted in a temporary segregation of  
 10 PHMA and SFA from mineral entry. While the choice of what lands to withdraw from  
 11 mineral entry is based on the designation of particular public lands as PHMA or SFA  
 12 under the Plan Amendments, such designation did not automatically result in withdrawal.  
 13 As Defendants aptly point out, the RODs only recommended withdrawal of Focal Areas,  
 14 and BLM was not required to petition the Secretary for withdrawal nor was the Secretary  
 15 obligated to accept BLM’s recommendation. (ECF No. 75 at 32; GBR 10781; NV 90682.)  
 16 Therefore, despite the classification of certain lands as PHMA or SFA in the Plan  
 17 Amendments, Plaintiffs cannot seek to enjoin the withdrawal process by challenging the  
 18 Plan Amendments. Claims that stem from the Notice of Proposed Withdrawal (counts III,  
 19 VII, VIII and IX) are not properly asserted in this case.

20 The Mining Companies appear to believe that the ultimate basis for their alleged  
 21 injuries is their inability to comment on the Plan Amendments’ recommendation for  
 22 mineral withdrawal. However, the Mining Companies do, in fact, have the ability to  
 23 challenge the decision by the Secretary to accept the recommendation of withdrawal,  
 24 which the Secretary could have chosen not to do. Their remedy is to directly challenge  
 25 the Secretary’s decision to accept BLM’s recommendation to withdraw these lands from  
 26 mineral entry. Because the Mining Companies’ claimed injuries relate to the Notice of  
 27 Withdrawal, they cannot demonstrate Article III standing to challenge the Plan  
 28 Amendments. See discussion *infra* at sect. IV(B)(1).

## 1           **B.     Standing**

2           An analysis of standing involves both Article III limitations as well as non-  
 3 constitutional statutory limitations. See *Pershing Park Villas Homeowners Ass'n v.*  
 4 *United Pac. Ins. Co.*, 219 F.3d 895, 899 (9th Cir. 2000). In Defendants' Motion, they  
 5 argue that Plaintiffs' claims are not currently justiciable in part because Plaintiffs lack  
 6 standing to challenge the Plan Amendments. (ECF No. 75 at 22-34.) Specifically, they  
 7 argue that Plaintiffs have failed to show they have satisfied the constitutional  
 8 requirement that they suffered a concrete and particularized injury or that such injury is  
 9 imminent. The Court finds that only three Plaintiffs have alleged sufficiently specific facts  
 10 to demonstrate that they have suffered a concrete and imminent injury sufficient for  
 11 Article III standing.

12           Given the number of Plaintiffs and the variety of statutes at issue in this case, the  
 13 Court will address both constitutional and statutory standing with respect to each  
 14 Plaintiff.

### 15                   **1.     Article III Standing**

16           "Article III of the Constitution limits federal-court jurisdiction to 'Cases' and  
 17 'Controversies.'" *Massachusetts v. EPA*, 549 U.S. 497, 516 (2007). "To satisfy Article  
 18 III's standing requirements, a plaintiff must show (1) it has suffered an 'injury in fact' that  
 19 is (a) concrete and particularized and (b) actual or imminent, not conjectural or  
 20 hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant;  
 21 and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by  
 22 a favorable decision." *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC) Inc.*, 528  
 23 U.S. 167, 180-81 (2000) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61  
 24 (1992)). The party invoking federal jurisdiction bears the burden of establishing these  
 25 elements. *FW/PBS*, 493 U.S. at 231.

26           Moreover, the party invoking standing also must show that it has standing for  
 27 each type of relief sought. *Summers v. Earth Island Inst.*, 555 U.S. 488, 493 (2009).  
 28 However, as Plaintiffs correctly pointed out at the hearing, only one Plaintiff needs to

1 show standing for the Court to address the claims asserted in this case. See  
 2 *Massachusetts*, 549 U.S. at 518 (in addressing a challenge to standing, the Court noted  
 3 that “[o]nly one of the petitioners needs to have standing to permit [the Court] to consider  
 4 the petition for review.”)

5 **a. State of Nevada**

6 While a state does not have standing as *parens patriae* to bring an action against  
 7 the federal government on behalf of its citizens, a state may bring suit based on a variety  
 8 of proprietary interests — for example, a state may own land or participate in a business  
 9 venture. *Alfred L. Snapp & Son, Inc., v. Puerto Rico ex rel. Barez*, 458 U.S. 592, 601,  
 10 610 n.16 (1982) (citing *Massachusetts v. Mellon*, 262 U.S. 447, 485-86 (1923)). As a  
 11 result of such proprietorship, a state may have standing to bring suit to remedy harm to  
 12 those interests. Moreover, a state may challenge land management practices on federal  
 13 land that could affect adjacent state-owned land. See *Douglas County v. Babbitt*, 48  
 14 F.3d 1495, 1501 (9th Cir. 1995) (county alleged via affidavit that land management  
 15 practices on federal lands would “[fail] to properly manage for insect and disease control  
 16 and fire,” threatening the productivity and environment of adjoining county lands).

17 In the FAC, the State generally alleges that, based on Nevada law, it has  
 18 significant interests in the “protection, propagation, restoration, transplanting,  
 19 introduction and management of wildlife in [the] State.” (ECF No. 20 at 4-5 (citing NRS §  
 20 501.181(1)(a)).) Specifically, the State challenges the Plan Amendments’ disturbance  
 21 cap protocol, claiming that the protocol actually encourages sage-grouse habitat  
 22 fragmentation by providing a “perverse incentive to locate new disturbances in areas  
 23 with little existing disturbance, which in turn increases direct and indirect effects to [the  
 24 GSG].” (*Id.* at 5 (quoting Governor Brian Sandoval).) In their reply brief, the State also  
 25 claims that the Plan Amendments increase the risk for fire and that the Amendments  
 26 curb the state Department of Wildlife’s ability to effectively manage wildlife (including the  
 27 sage-grouse). (See ECF No. 82 at 17-18.) The crux of the State’s alleged injury is that  
 28

1 the Plan Amendments interfere with land-use planning on state land, a viable proprietary  
2 interest.

3 However, the Court fails to find sufficiently specific facts in Plaintiffs' various briefs  
4 and declarations to demonstrate how particular binding standards in the Plan  
5 Amendments have caused, or imminently will cause, a concrete and particularized injury  
6 to the State. See *Churchill County v Babbitt*, 150 F.3d 1072, 1079 (9th Cir. 1998)  
7 (opinion amended and superseded on denial of rehearing) (city and county  
8 demonstrated a threatened concrete interest by asserting in affidavits that federal water  
9 programs would harm lands possessed or managed by them by causing fire hazards,  
10 airborne particles, erosion, unknown changes to underground water supply and reduced  
11 quality of local drinking water). The State identifies the specific Plan Amendment  
12 provisions that allegedly injure them — adaptive management triggers, allowance of  
13 unspecified mitigation measures, classification of land as "SFA," the 3 percent  
14 disturbance cap, no mitigation regulation on OHMA, and travel and transportation  
15 management (ECF No. 20 at 67) — but fails to provide evidence or specific facts  
16 showing exactly how these provisions cause them concrete harm that is imminent.  
17 Instead, they generally allege the provisions will "have an enormous impact on [sage-  
18 grouse] habitat and interfere substantially with conservation efforts of the State." (*Id.* at  
19 66-67.)<sup>9</sup> This is insufficient to withstand a motion for summary judgment.

20 Therefore, the State fails to offer sufficiently specific facts supported by  
21 admissible evidence to satisfy the initial Article III threshold of injury in fact.

## 22 **b. Counties**

23 The Ninth Circuit has held that "political subdivisions, such as cities and counties,  
24 whose power is derivative and not sovereign, cannot sue as *parens patriae*, although

---

25 <sup>9</sup>The State also provides a declaration from Richard Perry, the head of the  
26 Nevada Division of Minerals, which gives information about the revenue generated from  
27 the State's processing of mineral claims. (ECF No. 67-9.) However, challenging a  
28 potential loss in revenue from mineral claims aims at the Notice of Withdrawal. The Plan  
Amendments themselves, while recommending mineral withdrawal, do not actually  
segregate or withdraw the lands from mineral entry.

1 they might sue to vindicate such of their own proprietary interests as might be congruent  
 2 with the interests of their inhabitants.” *In re Multidistrict Vehicle Air Pollution M.D.L. No.*  
 3 *31*, 481 F.2d 122, 131 (9th Cir. 1973). A municipality, such as a county, has a proprietary  
 4 interest in its ability to enforce land-use regulations, its powers of revenue collection and  
 5 taxation, and its proprietary interest in protecting natural resources from harm. See *City*  
 6 *of Sausalito v. O’Neill*, 386 F.3d 1186, 1198 (9th Cir. 2004) (citing *Scotts Valley Band of*  
 7 *Pomo Indians of Sugar Bowl Rancheria v. United States*, 921 F.2d 924, 928 (9th Cir.  
 8 1990) (land-use); *Colorado River Indian Tribes v. Town of Parker*, 776 F.2d 846, 848-49  
 9 (9th Cir. 1985) (revenue collection and taxation); *Fireman’s Fund Ins. Co. v. City of Lodi*,  
 10 302 F.3d 928, 944 (9th Cir. 2002) (natural resources). Moreover, the Ninth Circuit has  
 11 determined that an increased risk of wildfire is sufficient to support standing. See *Delta*  
 12 *Water Agency v. United States*, 306 F.3d 938, 949-50 (9th Cir. 2002) (agreeing with the  
 13 D.C. Circuit that a substantial risk of wildfire is a threat of injury that entitles plaintiffs to  
 14 be heard). Additionally, a county may assert an injury to its proprietary interests where  
 15 “land management practices of federal land could affect adjacent” county-owned land.  
 16 *Douglas County*, 48 F.3d at 1501.

17 To survive a motion for summary judgment raising standing, the counties must set  
 18 forth “specific facts” by affidavit or by other admissible evidence demonstrating that they  
 19 have suffered an “injury in fact” as a result of the Plan Amendments. See *Anderson*, 477  
 20 U.S. at 256; *Friends of the Earth*, 528 U.S. at 180-81. For the reasons discussed below,  
 21 the Court finds that only three counties — Humboldt, Eureka, and Washoe — have  
 22 offered sufficiently specific facts supporting the existence of an injury in fact to withstand  
 23 Defendants’ Motion.

#### 24 1. Elko County

25 In the FAC, Elko County generally asserts that the travel restrictions in the Plan  
 26 Amendments affect 40 percent of all of the roads in their county as well as segments of  
 27 roughly 1,500 miles of county roads. (ECF No. 20 at 44; ECF No. 82-17 at 3.)  
 28 Specifically, the Plan Amendments prohibit cross-country travel, use of certain roads



1 during specific seasons or times of day, and impose limitations on noise disturbance in  
2 designated sage-grouse habitat. (*Id.* at 44.) Elko contends that these restrictions  
3 interfere with their land use planning and police powers, such as their obligation to  
4 maintain the transportation system and to provide emergency services. (*Id.* at 6.) They  
5 also allege that the grazing restrictions in the Plan Amendments will cause them  
6 environmental harm because of a resulting “build-up of fuel load on the range and [an]  
7 increase [in] wildfire frequency and intensity.” (*Id.*) Elko also states that the Plan  
8 Amendments’ prohibition on wind energy development in the PHMA will cause a loss of  
9 tax revenue, pointing to an acknowledgment of such a loss by the Agencies in the FEIS.  
10 (See ECF No. 82 at 6.) The Court fails to find sufficiently specific facts in the supporting  
11 affidavits and evidence to establish that Elko County has Article III standing.

12 In the declaration of Scott Brown (ECF No. 82-17), the County provides an  
13 example of an alleged injury to county road maintenance caused by the Plan  
14 Amendments. Roughly one-third of a particular segment of county road that gives  
15 residents access to private land is under the jurisdiction of BLM. (*Id.* at 2.) In fiscal year  
16 2015-2016, the County developed a project to resurface this particular segment of the  
17 road, including the portion under BLM’s jurisdiction. Because of the BLM road segment’s  
18 proximity to sage-grouse habitat, BLM required that the Nevada Department of Wildlife  
19 (“NDOW”) approve the County’s application for a Right of Way (“ROW”), which took  
20 approximately a month and a half. (*Id.* at 3.) The ROW has yet to be approved, but this  
21 can be explained by the County’s failure to provide an updated cultural resources  
22 survey. (See *id.*; ECF No. 95 at 14.)

23 Elko’s assertions about the Plan Amendments’ effect on its ability to maintain  
24 roads as evidenced in Mr. Brown’s declaration are not enough to demonstrate Article III  
25 standing. First, the alleged injury occurred after the filing of this action — the application  
26 for the ROW occurred in November of 2015 (ECF No. 82-17 at 2) — and cannot be  
27 relied upon to show standing. See *Lujan*, 504 U.S. at 569 n. 4 (“The existence of federal  
28 jurisdiction ordinarily depends on the facts *as they exist when the complaint is filed.*”)

1 (quoting *Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 830 (1989)). Moreover,  
2 the BLM Plan did not change the requirement that the County obtain approval to  
3 resurface BLM's portion of the road. Rather, the BLM Plan requires that BLM work with  
4 local governments to minimize upgrading existing routes in PHMA and GHMA unless the  
5 upgrade is necessary for public safety. (See N 90709.) Thus, Elko's claim that its failure  
6 to obtain a ROW has caused Elko monthly maintenance requirements of approximately  
7 \$9,300 is unpersuasive, especially since Elko offers no reasons why it did not at least  
8 resurface its portion of the road during fiscal year 2015-2016 to avoid these costs.

9 Elko's assertions of other harm are similarly insufficient to demonstrate standing.  
10 Elko relies on a declaration from Demar Dahl to support its claims regarding the Plan  
11 Amendments' grazing restrictions, travel restrictions, and prohibition on wind energy  
12 projects. (ECF No. 67-2.) First, the grazing restrictions do not take effect immediately  
13 according to the Plan Amendments; rather, permits are modified over a period of time  
14 and based on site-specific considerations.<sup>10</sup> Mr. Dahl asserts that the livestock grazing  
15 restrictions will result in increased fire frequency, but he fails to provide facts to show  
16 how these restrictions, as applied in the future, will result in increased wildfires in the  
17 county. (*Id.* at 6.) Such alleged potential harm in the future is not "actual or imminent."  
18 See *Summers*, 555 U.S. at 496 (finding a desire to return without expression of any firm  
19 intention to visit a location subject to the challenged regulation insufficient to satisfy the  
20 imminent injury requirement of standing). Mr. Dahl also states that the grazing  
21 restrictions affect private ranching and agriculture. (ECF No. 67-2 at 6.) Because Mr.  
22 Dahl does not connect his assertion of injury to private parties with the proprietary  
23 interests of Elko (other than a general allegation of economic harm) (*id.* at 7), the  
24 claimed harm to Elko's citizens is asserted as *parens patriae*, which Elko cannot bring.  
25 See *In re Multidistrict Vehicle Air Pollution M.D.L. No. 31*, 481 F.2d at 131.

---

26 <sup>10</sup>BLM even acknowledges in the BLM Plan that the habitat objectives may not be  
27 obtainable on every acre of sage-grouse habitat, in which case they will perform a land  
28 health evaluation to discern a specific site's ecological ability to meet the habitat  
objectives identified in the Amendments at Table 2-2. (NV\_0090676 – NV\_0090677.)

1           Second, Mr. Dahl fails to identify any post-decisional injuries caused by the Plan  
2 Amendments' prohibition on wind energy development; rather, he mentions the County's  
3 inability to proceed on the China Wind Energy Project, which occurred before the FEIS  
4 or Plan Amendments were issued. (ECF No. 67-2 at 10.)

5           Finally, Mr. Dahl raises injuries caused by the travel restrictions: (1) ranches,  
6 hunters, recreationists, and exploration geologists will be prohibited from road-access to  
7 county lands and cross-country travel; (2) the seasonal and daily travel restrictions as  
8 well as proposed road closures may impede or even eliminate access to adjacent private  
9 land sections and deprive landowners of access to their private property; and (3) road  
10 closures interfere with the County's obligation to maintain their roads and provide for  
11 public safety. (*Id.* at 9-10.) However, the first two injuries affect private citizens and it is  
12 unclear how they affect the proprietary interests of Elko; and such injuries are also too  
13 speculative and not actual or imminent. The third injury is too vague (as well as  
14 speculative) to show imminent harm for purposes of rebutting Defendants' Motion.

15           Thus, the Court finds that Elko County fails to offer sufficiently specific facts  
16 supported by admissible evidence to satisfy the initial threshold showing of injury in fact  
17 for purposes of Article III standing.

## 18                               2.     *Eureka County*

19           Eureka County generally alleges that the Plan Amendments will interfere with its  
20 land use planning and sovereign police powers, including emergency services, and that  
21 the Plan Amendments' livestock grazing restrictions will increase fuel loads, burdening  
22 the County and destroying sage-grouse habitat. (See ECF No. 20 at 9.) They also allege  
23 that the ranching, farming and mining businesses that form the County's economic base  
24 will be affected, devastating the County's economic outputs. (*Id.* at 45.) In that vein,  
25 Eureka contends that the Plan Amendments' habitat map incorrectly identifies lands as  
26 sage-grouse habitat, specifically developed areas where land use restrictions are  
27 "nonsensical," and lands it had previously identified for disposal for development and  
28 infrastructure. (See *id.* at 46-47.) Eureka also asserts that specific provisions in the Plan

1 Amendments will interfere with its conservation projects because private landowners will  
2 be less willing to work with them and that the decrease in tax revenues resulting from the  
3 Plan Amendments will impede its conservation efforts as well. (*Id.* at 47-50.)

4 To support its allegations, Eureka County offered three declarations from Julian J.  
5 Goicoechea, who is a rancher, veterinarian, firefighter, and County Commissioner for  
6 Eureka.<sup>11</sup> (ECF Nos. 67-3, 82-1, 99-1.) Mr. Goicoechea states that the Plan  
7 Amendments' seasonal restrictions substantially interfere with their use of a gravel pit for  
8 six months of the year, November 1 – May 15, and that the pit is a longstanding source  
9 of materials for necessary road repairs. (ECF No. 82-1 at 2.) BLM added seasonal  
10 restrictions to Eureka's permit for the gravel pit in March 2016 (when Eureka sought to  
11 renew it). (*Id.*) The pit covers 7.5 acres and is located next to a road as well as pinyon  
12 and juniper trees. (*Id.*) Failure to access the pit and thus maintain county roads during  
13 this six-month period interferes with safe travel for county residents and county  
14 emergency services. (*Id.* at 3.) Specifically, the inability to access materials needed for  
15 repairs during this time will leave damage to washouts, drainage crossing, culverts and  
16 cattleguards, making the roads unsafe as the roads in the area are heavily traveled and  
17 the County often needs gravel material during the prohibited months. The travel  
18 restrictions also limit the County's ability to access weed-infested roads in the springtime  
19 for their noxious and invasive weed treatment program, which treats over 1,000 acres of  
20 land. (ECF No. 67-3 at 7.) Mr. Goicoechea further asserts that the Plan Amendments  
21 incorrectly designated the town of Eureka, US Highway 50, State Route 278, County  
22 landfill, power lines, multiple subdivisions of homes, farms with alfalfa field and irrigations  
23 systems, and hay barns, as PHMA. (*Id.*) Because there are explicit land use restrictions  
24 for PHMA, the effect of having a town and other landmarks designated as PHMA  
25 obviously will affect county land use and planning. Moreover, Mr. Goicoechea also states  
26 that improper habitat delineations in the Plan Amendments have compromised county

---

27 <sup>11</sup>The Court strikes the majority of Mr. Goicoechea's third declaration. See  
28 discussion *supra* at sect. III(A).

1 water plans that are in advanced stages for Diamond Valley, where two-thirds of the  
2 County's residents reside. (*Id.* at 6.)

3 The Court finds the evidence offered through Mr. Goicoechea's declarations  
4 sufficient to demonstrate that the Plan Amendments have injured the County's  
5 proprietary interests in maintaining its roads and utility programs, as well as protecting  
6 the local environment. Thus, Eureka County provides sufficiently specific evidence to  
7 support the existence of an injury in fact for purposes of Article III standing.

### 8 3. *Humboldt County*

9 In the FAC, Humboldt County generally alleges that the Plan Amendments'  
10 reduction in the number of livestock allowed to graze by least 25 percent, seasonal road  
11 closures during sage-grouse breeding and nesting seasons, and restrictions on pasture  
12 rotations will negatively impact ranchers, the second most important industry for the  
13 county. (ECF No. 20 at 11.) Germane to Humboldt's land use management, they claim  
14 that the Plan Amendments interfere with their good grazing practices, agricultural  
15 management, zoning ordinances, wildfire and wildlife management activities, road  
16 construction and maintenance, landfill plans, pipelines, local and interstate travel, and  
17 their ability to attract industrial development. (*Id.* at 11-12.) Humboldt also claims that the  
18 land it had identified for disposal to expand its landfill was erroneously marked as PHMA  
19 in the final habitat map and that the Plan Amendments reduce geothermal exploration  
20 and development in the county. (ECF No. 82 at 3, 6, 12.) Humboldt provided a  
21 declaration in support of its allegations from County Commissioner Jim French (ECF No.  
22 67-5). The Court finds that Humboldt has demonstrated standing based on its assertion  
23 as to the impact on its planned landfill expansion.<sup>12</sup>

---

24  
25 <sup>12</sup>Humboldt alleges harm related to the withdrawal of SFA from new mining claims  
26 (ECF No. 67-5 at 4), but Plaintiffs cannot challenge the Notice of Withdrawal through the  
27 Plan Amendments. (See discussion *supra* at sect. IV(A).) Humboldt also asserts harm  
28 relating to the Plan Amendments' restrictions on travel and its potential impact on the  
County's road maintenance schedule and the County's discharge of its responsibilities,  
and grazing and the resulting potential fire hazards. (ECF No. 67-5 at 3-5.) The Court  
finds that these alleged injuries are too speculative and not actual or imminent. For  
(...fn. cont.)



1 In his declaration, Mr. French asserts that Humboldt's "current landfill footprint will  
 2 require expansion to meet growth predictions within the next 10-15 years." (ECF No. 67-  
 3 5 at 5.) The landfill is entirely surrounded by federal lands (*id.*), which have been marked  
 4 as PHMA in the final habitat map (ECF No. 82 at 12; NV 163173-77). Under the Plan  
 5 Amendments, Humboldt would have to go through the additional burden of showing that  
 6 the disposal of the land needed for the landfill expansion would provide a net  
 7 conservation gain to the sage-grouse or that disposal of the land would not have any  
 8 direct or indirect adverse impact on conservation of the sage-grouse. (See NV 90707;  
 9 FS 140161.) This is sufficient to support the existence of an injury in fact to satisfy Article  
 10 III standing.

#### 11 4. Washoe County

12 Washoe County alleges that the generalities in the Plan Amendments' maps  
 13 result in arbitrary exclusion of Washoe County lands from use. (ECF No. 20 at 54.) For  
 14 instance, the County claims that Reno and Sparks have exerted planning jurisdiction  
 15 over particular public lands for a new school and cemetery that are now off-limits to them  
 16 because of the lands' designation as PHMA. As support, Washoe offers a declaration  
 17 from Jeanne Herman, a member of the Washoe County Board of County  
 18 Commissioners. (ECF No. 67-6 at 3.) Ms. Herman states that the County worked with  
 19 the Carson City regional BLM office to identify lands that were suitable for disposable for  
 20 needed public uses. Because of the final map published in the FEIS, many lands the  
 21 County and regional BLM office had identified as disposable for future county use have  
 22 been classified as PHMA. For example, the Washoe County School District had  
 23 evaluated eighty acres of public lands for a future middle school site adjacent to a large  
 24

---

25 (*...fn. cont.*)

26 example, with respect to road maintenance, Mr. French provides no details about how  
 27 Humboldt normally conducts maintenance and how the Plan Amendments' seasonal  
 28 restrictions affect it. As another example, Mr. French generally alleges that the Plan  
 Amendments interfere with grazing practices that manage fuel loads during high periods  
 of fire risk (*id.* at 3-4), but he does not claim that grazing permits have been modified in  
 the County or will be modified so as to cause an increased risk of wildfire.

1 residential community. The final map classified this land as PHMA or sage-grouse  
2 habitat.<sup>13</sup>

3 Under the BLM Plan, a 3 percent human disturbance cap immediately applies to  
4 lands classified as PHMA. (NV 90678 – NV 90679.) Thus, the BLM Plan essentially  
5 requires Washoe to go through the additional burden of showing that the disposal of the  
6 lands that the County seeks would provide a net conservation gain to the sage-grouse or  
7 that disposal of the lands would not have any direct or indirect adverse impact on  
8 conservation of the sage-grouse. (See NV 90707.) Accordingly, Washoe County  
9 provides sufficiently specific evidence to support the existence of an injury in fact for  
10 purposes of Article III standing.

#### 11 5. *Remaining Counties*

12 The remaining counties — Churchill, White Pine, Pershing, Lincoln, Lander — fail  
13 to support their alleged injuries with specific evidence beyond the general allegations  
14 stated in the FAC. Defendants' Motion challenge that these Plaintiffs' have standing. By  
15 failing to offer specific evidence, through affidavits or admissible evidence, Plaintiffs have  
16 failed to meet their burden in opposing summary judgment. *See Bhan*, 929 F.2d at 1409.  
17 Moreover, as the parties invoking federal jurisdiction, it is Plaintiffs' burden to establish  
18 the elements of standing. *Lujan*, 504 U.S. at 561. They have failed to do so in this case.  
19 The Court therefore grants summary judgment in favor of Defendants with regards to  
20 Churchill, White Pine, Pershing, Lincoln, and Lander Counties.

#### 21 c. **The Ranch**

22 Ninety-Six Ranch, a family-owned and operated business, is located on 16,000  
23 acres of private land in Humboldt County. (ECF No. 20 at 16.) The Ranch also has  
24 grazing permits for over 250,000 acres of BLM and USFS public lands in the surrounding  
25 area. (*Id.*) In the FAC, the Ranch generally alleges three injuries caused by the Plan  
26

---

27 <sup>13</sup>When Washoe County asked BLM whether they could perform a site-specific  
28 habitat analysis to confirm that the eighty acres were actually suitable sage-grouse  
habitat, BLM refused. (ECF No. 67-6 at 3.)

1 Amendments. First, the Plan Amendments require a reduction in or cancellation of its  
 2 grazing permits, which threatens the survival of its operations and devalues its land and  
 3 resources. (*Id.*) Second, the Ranch contends that the Plan Amendments limit grazing  
 4 during spring and summer months, which make their grazing permits useless, and  
 5 threaten the safety of the Ranch by allowing fuels like cheatgrass to grow without check.  
 6 (*Id.*) Third, the Plan Amendments' limitations on use of trailing permits on or near sage-  
 7 grouse leks — the Ranch alleges they cannot trail cattle across public lands within four  
 8 miles of leks — affects access to one-third of the Ranch's private lands, including  
 9 pastures it has leased as well as vested water-sources on publicly managed lands. (*Id.*)  
 10 The Ranch relies on the declaration of Fred Stewart, the Ranch's Manager, to support  
 11 these alleged injuries. (ECF No. 67-7.)

12 Defendants counter that the Plan Amendments themselves do not modify the  
 13 Ranch's existing permits and do not dictate that grazing levels be reduced in the future.  
 14 (ECF No. 76 at 27.) Defendants also contend that the Ranch has failed to show that a  
 15 reduction in grazing is imminent. (ECF No. 95 at 16.)

16 The Court agrees with Defendants. The USFS Plan states that the grazing  
 17 guidelines do not take immediate effect and will be phased in over a period of 18 to 36  
 18 months as permits are modified and renewed. (FS 140119.). The BLM Plan provides that  
 19 "NEPA analysis of renewals and modifications of livestock grazing permits/leases that  
 20 include lands within SFA and PHMA will include specific management thresholds." (NV  
 21 90696.) The BLM Plan identifies potential modifications to permits to make them  
 22 consistent with sage-grouse habitat objectives. (NV 90696 – NV 90697.) Neither Plan  
 23 requires immediate changes in grazing levels, nor do they require that all grazing and  
 24 trailing permits be modified so as to categorically reduce grazing.<sup>14</sup> Additionally, the BLM  
 25

---

26 <sup>14</sup>The Ranch points to Table 2-2 in the BLM Plan to suggest that certain  
 27 seasonable restrictions have immediate effect on existing grazing permit holders. (ECF  
 28 No. 82 at 13.) However, as Defendants responded during the February 1 hearing, the  
 restrictions identified in Table 2-2 are objectives that permit review planners have to  
 (...*fn. cont.*)

1 Plan states that lek buffer distances will be applied at the project level after NEPA  
 2 analysis. (NV 91816.) The BLM Plan also states that a “key element” of their strategy to  
 3 reduce the threat of rangeland fire is to address the invasion and expansion of  
 4 cheatgrass, medusahead rye, and other invasive grasses. (NV 91820.)

5 In sum, the Plan Amendments’ grazing restrictions and limitations on trailing  
 6 permits have no immediate effect but are subject to possible future implementation.  
 7 Accordingly, the Ranch fails to offer sufficiently specific facts supported by admissible  
 8 evidence to satisfy the initial threshold showing of injury in fact for purposes of Article III  
 9 standing.

#### 10 **B. Statutory Standing**

11 “[D]eprivation of a procedural right without some concrete interest that is affected  
 12 by the deprivation—a procedural right *in vacuo*—is insufficient to create Article III  
 13 standing.” *Summers*, 555 U.S. at 498. Thus, to establish statutory standing, a plaintiff  
 14 alleging a procedural injury must first show that the agency procedures in question were  
 15 designed to protect a threatened concrete interest that is the “ultimate basis” of her  
 16 standing. *Cantrell v. City of Long Beach*, 241 F.3d 674, 679 (9th Cir. 2001) (citing *Lujan*,  
 17 504 U.S. at 573 n. 8). This requires a showing that (1) the agency violated certain  
 18 procedural rules, (2) those rules protect the plaintiff’s concrete interests, and (3) it is  
 19 reasonably probable that the challenged action will threaten the plaintiff’s concrete  
 20 interests. *Citizens for Better Forestry v. U.S. Dep’t of Agric.*, 341 F.3d 961, 969-70 (9th  
 21 Cir. 2003). A plaintiff shows injury to a “concrete interest” when the plaintiff “will suffer  
 22 harm by virtue of [its] geographic proximity to and use of areas that will be affected” by  
 23 the challenged agency action. *Id.* at 971. Moreover, if a procedural injury is sufficiently  
 24 demonstrated, the plaintiff’s burden to satisfy the last two prongs of the Article III inquiry,  
 25 causation and redressability, are relaxed. *Lujan*, 504 U.S. at 572 n.7; *see also Salmon*

---

26 (...*fn. cont.*)

27 consider, but they do not immediately apply to existing permit holders. (ECF No. 125 at  
 28 9-10.)

1 *Spawning & Recovery Alliance v. Gutierrez*, 545 F.3d 1220, 1226-1227 (9th Cir. 2008)  
 2 (citing *Pit River Tribe v. U.S. Forest Serv.*, 469 F.3d 768, 779 (9th Cir. 2006)).

3 Where, as here, plaintiffs are challenging agency action under the APA, “plaintiffs  
 4 need only show that their interests fall within the ‘general policy’ of the underlying  
 5 statute, such that interpretations of the statute’s provisions or scope could directly affect  
 6 them.” *Graham v. Fed. Emergency Mgmt. Agency*, 149 F.3d 997, 1004 (9th Cir. 1998)  
 7 (quoting *Nat’l Credit Union Admin., v. First Nat’l Bank and Trust Co.*, 522 U.S. 479, 487-  
 8 488 (1998) (further citations omitted)), *abrogated on other grounds by Novak v. U.S.*,  
 9 795 F.3d 1012 (9th Cir. 2015). In other words, plaintiffs must “show that the injury  
 10 [plaintiffs have] suffered falls within the zone of interests that the statute was designed to  
 11 protect.” See *Douglas County*, 48 F.3d at 1499. However, the Supreme Court has  
 12 clarified that in the APA context, the standing test “is not meant to be especially  
 13 demanding” and “the benefit of any doubt goes to the plaintiff.” *Match-E-Be-Nash-She-*  
 14 *Wish Band of Pottawatomis Indians v. Patchak*, 132 S.Ct. 2199, 2210 (2012) (quoting  
 15 *Clarke v. Securities Industry Assn.*, 479 U.S. 388, 399 (1987)).

16 The Court will address each statute in turn to determine whether Plaintiffs Eureka,  
 17 Humboldt, and Washoe can satisfy statutory standing.<sup>15</sup>

### 18 1. FLPMA

19 Under FLPMA, the BLM is required to develop and periodically revise or amend  
 20 its resource management plans (“RMPs”), which guide management on BLM-  
 21 administered federal lands. 43 U.S.C. § 1712(c)(9). Alleged procedural violations of  
 22 FLPMA are reviewed under the APA. See *Ctr. For Biological Diversity v. U.S. Dep’t of*  
 23 *Interior*, 581 F.3d 1063, 1070 (9th Cir. 2009). FLPMA’s purpose is to manage public  
 24 lands for “multiple use, [ ] with an increased emphasis on the management of the public  
 25 lands ‘in a manner that will protect the quality of scientific, scenic, historical, ecological,

---

26 <sup>15</sup>The Court will not address statutory standing under the General Mining Law as  
 27 this relates to claims arising from the Notice of Proposed Withdrawal, which Plaintiffs  
 28 cannot challenge through the RODs adopting the Plan Amendments. (See discussion  
*supra* at sect. IV(A).)



1 environmental, air and atmospheric, water resource, and archeological values.” *W.*  
 2 *Watersheds Project v. Kraayenbrink*, 632 F.3d 472, 478 (9th Cir. 2010) (citing 43 U.S.C.  
 3 § 1701(a)(8)). This provision of FLPMA also provides that the “public lands be managed  
 4 in a manner that . . . will provide food and habitat for fish and wildlife and domestic  
 5 animals; and that will provide for outdoor recreation and human occupancy and use.” 43  
 6 U.S.C. § 1701(a)(8). Moreover, Section 202(c)(9) of FLMPA states that,

7 In the development and revision of land use plans, the Secretary [of the  
 8 Department of Interior] shall, to the extent consistent with the laws  
 9 governing the administration of the public lands, coordinate the land use  
 10 inventory, planning, and management activities of or for such lands with  
 11 the land use planning and management programs of . . . local governments  
 12 within which the lands are located . . . keep apprised of . . . local [ ] land  
 13 use plans; assure that consideration is given to those . . . local [ ] plans that  
 are germane in the development of land use plans for public lands; assist  
 in resolving, to the extent practical, inconsistencies between Federal and  
 non-Federal Government plans, and provide for meaningful public  
 involvement of State and local government officials . . . in the development  
 of land use programs, land use regulations, and land use decisions for  
 public lands. . .

14 43 U.S.C. § 1712(c)(9). It is clear to the Court that this provision of the statute protects  
 15 local governments from over encroachment by the federal government and aims to  
 16 balance conservation with communities’ sustained use of the environment.

17 Eureka, Humboldt, and Washoe Counties are clearly within the zone of interests  
 18 encompassed under FLPMA. The explicit language of Section 209(c)(9) provides that  
 19 the local knowledge and concerns of counties be adequately considered in the land use  
 20 planning process, ostensibly to ensure that the federal government does not encroach  
 21 on local needs. All three counties identify concrete injuries that they allege are caused  
 22 by BLM’s failure to meet the requirements of FLPMA. Therefore, the Court finds that  
 23 these counties demonstrate that they have standing to bring suit for alleged violations of  
 24 FLPMA.

## 25 2. NFMA

26 NFMA, 16 U.S.C. § 1600 *et seq.*, requires the Secretary of Agriculture and the  
 27 Forest Service to manage the national forest system consistent with the principles of the  
 28 Multiple Use and Sustained Yield Act of 1960 (“MUSYA”), 16 U.S.C. § 583 *et seq.* Under

1 NFMA, the Forest Service is required to develop and periodically revise or amend its  
2 land and resource management plans (“LRMPs”), which guide management of forests  
3 managed by USFS. Congress enacted NFMA to “serve the national interest” by ensuring  
4 that “renewable resource program[s] [for the National Forests] [ ] be based on a  
5 comprehensive assessment of present and anticipated uses, demand for, and supply of  
6 renewable resources from the Nation’s public and private forests and rangelands,” and  
7 that the agency provide for multiple use and sustained yield opportunities. 16 U.S.C. §  
8 1600(3). The statute requires that USFS “develop, maintain, and, as appropriate, revise  
9 land and resource management plans for units of the National Forest System,  
10 coordinated with the land and resource management planning processes of State and  
11 local governments . . .” 16 U.S.C. § 1604(a). In doing so, the agency must take a  
12 “systematic interdisciplinary approach to achieve integrated consideration of physical,  
13 biological, economic and scientific factors.” 16 U.S.C. § 1604(b).

14 The Court finds that the language of NFMA is unequivocal about what zone of  
15 interests it purports to protect — Congress clearly intended that local governments’ land  
16 use and economic concerns be given substantive consideration when creating national  
17 land use plans, including forest management plans, as local governments and their  
18 citizens are directly impacted by the effects of any such plans. However, NFMA grants  
19 the Forest Service statutory authority over only those public lands that are national  
20 forests. Thus, only those counties containing national forest lands have standing under  
21 the statute.

22 Of the three counties remaining, only Eureka and Humboldt possess National  
23 Forest System lands — specifically a portion of the Humboldt-Toiyabe National Park.  
24 Eureka asserts that the travel restrictions have caused them concrete and imminent  
25 injury. Humboldt asserts that the Plan Amendments’ designation of the lands  
26 surrounding its landfill disrupts its future growth and development. Therefore, Eureka  
27 and Humboldt have satisfied both Article III and statutory standing to bring a challenge  
28 under NFMA.

### 3. NEPA

NEPA is a procedural statute that requires federal agencies to “assess the environmental consequences of their actions before those actions are undertaken.” *Klamath-Siskiyou Wildlands Ctr. v. Bureau of Land Mgmt.*, 387 F.3d 989, 993 (9th Cir. 2004). All that NEPA requires is that an agency adequately identify and evaluate any adverse environmental effects of a proposed action. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989). NEPA’s express purpose is to protect the environment, *Cantrell*, 241 F.3d at 679, and to ensure that federal agencies prevent or eliminate the environmental consequences of their proposed actions before deciding to proceed. See *Native Ecosystems Council v. Weldon*, 697 F.3d 1043, 1051 (9th Cir. 2012). While the Ninth Circuit has held that a governmental entity in geographical proximity to the site of proposed action, and which must under NEPA be consulted in the EIS process, has standing to challenge the EIS, *Am. Motorcyclist Ass’n v. Watt*, 714 F.2d 962, 965 (9th Cir. 1983), it may do so only if it demonstrates that the environmental health of its land interests is threatened by the agency’s action. See *Churchill County*, 150 F.3d at 1081.

“Once a plaintiff has established an injury in fact under NEPA, the causation and redressability requirements are relaxed.” *Cantrell*, 241 F.3d at 682. Causation concerns only whether a plaintiff’s injury is dependent upon the agency’s rule or policy and not the result of independent incentives of a third-party. *Idaho Conservation League v. Mumma*, 956 F.2d 1508, 1518 (9th Cir. 1992).

The Court finds that only Eureka County and Humboldt County have standing under NEPA to challenge the Plan Amendments. Both Counties contend that the change in habitat designation to PHMA that resulted from the FEIS has spillover effects on county-owned land adjacent to federal land and thereby harms the counties’ proprietary interests. See *Sierra Forest Legacy v. Sherman*, 646 F.3d 1161, 1178 (9th Cir. 2011) (finding that the State of California had demonstrated a “concrete and particularized interest” protected under NEPA by showing a desire to protect their proprietary interests

1 from direct harm and spillover effects resulting from actions on federal lands.) For  
2 example, Humboldt asserts that such designation affects its ability to meet the predicted  
3 demands on its landfill, which is surrounded by federal lands that became designated as  
4 PHMA in the FEIS. Given the less “demanding” test in the APA context, requiring “that  
5 the benefit of the doubt goes to the plaintiff,” see *Match-E-Be-Nash-She-Wish Band of*  
6 *Pottawatomi Indians*, 132 S.Ct. at 2210, the Court finds that the Counties’ assertions are  
7 sufficient to demonstrate statutory standing.

8 In addition, Eureka County has shown that the environmental health of its land  
9 interests is threatened by the Agencies’ adoption of the Plan Amendments. Eureka  
10 County contends that the Plan Amendments’ travel restrictions interfere with its noxious  
11 and invasive plant species removal, which Eureka performs during the springtime.  
12 Eureka also contends that improper habitat delineations in the Plan Amendment maps  
13 compromise county water plans in Diamond Valley, where two-thirds of county residents  
14 reside, and the town of Eureka and other landmarks. Eureka County clearly identifies  
15 how the Plan Amendments threaten environmental considerations in its land use  
16 planning, sufficiently demonstrating statutory standing.

17 Washoe County’s claimed injury — interference with land disposal for purposes of  
18 public planning — does not identify or implicate any environmental concerns stemming  
19 from its failure to acquire public lands. And unlike Humboldt County, Washoe County  
20 cannot claim harm to its proprietary interest from any spillover effect on county-owned  
21 lands caused by actions on adjacent federal lands.

#### 22 4. SBREFA

23 The Small Business Regulatory Enforcement and Fairness Act, Pub. L. No. 104-  
24 121, amended the Regulatory Flexibility Act (“RFA”), Pub. L. No. 96-354, and extended  
25 the requirements under RFA to small entities. In the FAC, Plaintiffs contend that  
26 Defendants were required to create and allow public comment on a Regulatory Flexibility  
27 Analysis for the Plan Amendments. (ECF No. 20 at 40.) In Plaintiffs’ Motion, Plaintiffs  
28 make no arguments that the Agencies were required to perform and allow for public

comment on an economic analysis under the RFA.<sup>16</sup> Accordingly, the Court finds that Plaintiffs have waived assertion of claims under SBREFA.

### C. Ripeness

Defendants argue that the Plan Amendments act as a planning tool to guide future decision making and that final, reviewable agency action does not occur until site specific decisions are made. (ECF No. 125 at 8.) Because the Court finds that three Plaintiffs have met the requirements for standing under Article III and the relevant statutes, the Court will consider whether the relevant claims for relief are ripe.

“While standing is primarily concerned with who is a proper party to litigate a particular matter, ripeness addresses when litigation may occur.” *Lee v. Oregon*, 107 F.3d 1382, 1387 (9th Cir. 1997). “When, as here, review is sought not pursuant to specific authorization in the substantive statute, but only under the general review provisions of the APA, the ‘agency action’ in question must be ‘final agency action.’” *Lujan*, 497 U.S. at 882 (citing 5 U.S.C. § 704); see *Or. Natural Desert Ass’n v. U.S. Forest Serv.*, 465 F.3d 977, 982 (9th Cir. 2006). Final agency action is a jurisdictional prerequisite to judicial review. *Fairbanks N. Star Borough v. U.S. Army Corps of Eng’rs*, 543 F.3d 586, 591 (9th Cir. 2008).

The Supreme Court has articulated two conditions that must be satisfied before an agency action may be considered “final.” See *Bennett v. Spear*, 520 U.S. 154, 157-58 (1997). Even if final, the action is reviewable under the APA only if there are no adequate alternatives to APA review in court. 5 U.S.C. § 704. First, to be considered a “final” agency action, the “challenged agency action must represent the consummation of the agency’s decisionmaking process.” *Id.* at 178. The agency has to have “rendered its last word on the matter” to determine whether the action is final and thus ripe for judicial review. *Whitman v. Am. Trucking Ass’n*, 531 U.S. 457, 478 (2001). Second, the agency action must be “one by which ‘rights or obligations have been determined,’ or from which

---

<sup>16</sup>Instead, Plaintiffs argue that NEPA requires an economic analysis on the changes made between the DEIS and FEIS. (See ECF No. 67 at 25-27.)



1 'legal consequences will flow.'" *Bennett*, 520 U.S. at 158 (quoting *Port of Boston Marine*  
 2 *Terminal Ass'n v. Rederiaktiebolaget Transatlantic*, 400 U.S. 62, 71 (1970)). The Ninth  
 3 Circuit has explained that an action is final when it has a direct and immediate effect on  
 4 the day-to-day business of the subjected party. *Or. Natural Desert Ass'n*, 465 F.3d at  
 5 987 (citing *Ukiah Valley Med. Ctr.*, 911 F.2d at 264) (further citations omitted). The  
 6 ultimate question is whether the action has the "status of law or comparable legal force[]"  
 7 and whether immediate compliance with its terms is expected." *Ukiah*, 911 F.2d at 264.

8 Eureka County challenges decisions in the Plan Amendments that the Agencies  
 9 have deemed "immediate," that require no additional analysis, and that are mandatory  
 10 constraints on project and activity decision making, such as the seasonal travel  
 11 limitations and the designation of lands as sage-grouse habitat. (NV\_0090715;  
 12 FS\_0140123). With respect to road maintenance, Defendants contend that Eureka  
 13 County must wait until a hazardous road condition occurs and they are unable to access  
 14 gravel to repair their roads, to challenge the seasonal travel restrictions. (ECF No. 95 at  
 15 14.) However, the Supreme Court has found that a party is put in an unacceptable  
 16 position when it must wait for the actual harm to occur, only to be left with the choice of  
 17 violating the law or going through the tedious and expensive administrative process in  
 18 order to be officially denied and then seek judicial review. *See U.S. Army Corps of*  
 19 *Eng'rs v. Hawkes Co. Inc.*, 136 S.Ct. 1807, 1817 (2016). Thus, the decisions Eureka has  
 20 identified as immediate or mandatory amount to final agency action ripe for judicial  
 21 review.

22 Humboldt and Washoe counties' claimed injuries are caused by the BLM Plan's 3  
 23 percent human disturbance cap, which immediately applies to lands classified as PHMA.  
 24 (NV 90678 – NV 90679.) They have identified a final agency action ripe for judicial  
 25 review as well.

#### 26 **D. Merits of Plaintiffs' Claims**

27 The Court next address the four remaining claims asserted under the APA: (1)  
 28 violation of the APA and FLPMA by ignoring consistency requirements (Count I); (2)

violation of the APA, FLPMA, and NFMA for the failure to manage federal lands for multiple-use and sustained yield (Count II); (3) violation of the APA, NEPA, and FLPMA<sup>17</sup> for substantial changes between the DEIS and the FEIS with no opportunity for public notice or comment (Count IV); and (4) violation of the APA and NEPA for failure to take a hard look at the impact of the proposed plan and analyze viable alternatives (Count V). (ECF No. 20 at 69-84.)

### 1. Legal Standard

The APA limits the scope of judicial review of agency actions. A court may reverse an agency decision only if it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). An agency’s decision may be reversed as arbitrary and capricious “if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). “To make this finding, the court must consider whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment.” *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402, 416 (1971).

In reviewing an agency’s decision under this standard, “the reviewing court may not substitute its judgment for that of the agency.” *Env’tl. Def. Ctr., Inc. v. U.S. Env’tl. Prot. Agency*, 344 F.3d 832, 858 n.36 (9th Cir. 2003). Rather, the function of the district court is only to determine whether as a matter of law the evidence in the administrative record permitted the agency to make the decision it did. *Occidental Eng’g Co. v. I.N.S.*, 753 F.2d 766, 769-70 (9th Cir. 1985). Although this review is narrow, “a reviewing court must

---

<sup>17</sup>This claim erroneously incorporates FLPMA; only NEPA requires a supplemental EIS when there are substantial changes between the DEIS and FEIS. See 40 C.F.R. § 1502.9(c). Therefore, the Court addresses this claim only as a NEPA violation brought under the APA.

1 conduct a searching and careful inquiry into the facts.” *Nw. Motorcycle Ass’n*, 18 F.3d at  
 2 1471. “A satisfactory explanation of agency action is essential for adequate judicial  
 3 review, because the focus of judicial review is not on the wisdom of the agency’s  
 4 decision, but on whether the process employed by the agency to reach its decision took  
 5 into consideration all the relevant factors.” *Asarco, Inc. v. U.S. Envtl. Prot. Agency*, 616  
 6 F.2d 1153, 1159 (1980).

7 **a. FLPMA**

8 Plaintiffs allege that BLM failed to comply with FLPMA by (1) ignoring consistency  
 9 requirements and (2) failing to manage federal lands for multiple-use and sustained  
 10 yield.<sup>18</sup> The Court addresses the merits of each in turn.

11 *i. Consistency Requirements*

12 Plaintiffs<sup>19</sup> allege that BLM violated Section 202(c)(9) because it “made no  
 13 attempt” to reconcile inconsistencies between the BLM Plan and local land use plans.  
 14 (ECF No. 67 at 36.) More specifically, they contend that BLM ignored the counties’  
 15 comments, failed to identify specific inconsistencies in the county plans with federal law,  
 16 and failed to fulfill its responsibility to minimize inconsistencies between the BLM Plan  
 17 and the counties’ land use plans to the maximum extent possible. (*Id.* at 42.) The Court  
 18 disagrees and finds that BLM fulfilled its obligations under FLPMA’s consistency  
 19 requirements.

20 Under FLPMA, the Secretary of the Interior, acting through BLM, is required to  
 21 coordinate with local governments, keep apprised of and consider local plans “germane  
 22 in the development of land use plans for public lands, [and] assist in resolving, *to the*  
 23 *extent practical*, inconsistencies between Federal and non-Federal Government plans.  
 24 See 43 U.S.C. §1712(c)(9) (emphasis added). The agency’s plans must be consistent  
 25 with local plans to the maximum extent the agency finds consistent with federal law and

26 <sup>18</sup>FLPMA does not apply to the Forest Service.

27 <sup>19</sup>Because the State of Nevada does not have standing to challenge the Plan  
 28 Amendments, the Court will address this claim only as it applies to the remaining county  
 plaintiffs.

1 the purposes of the statute. See *id.* By regulation, if a local government notifies BLM in  
2 writing of specific inconsistencies between the draft plan and the local government's  
3 approved or adopted plans, the agency's final plan must show how the inconsistencies  
4 were addressed and, if possible, resolved. 43 C.F.R. § 1610.3-3(a)(3). Any person who  
5 participated in the planning process and who has an interest that is adversely affected  
6 by the plan may protest within thirty days of publication of the Notice of Availability. 43  
7 C.F.R. §1610.6-2(a)(2).

8 While Plaintiffs note that Eureka County formally participated as a cooperating  
9 agency in the BLM's amendment process, they contend that BLM chose to delay review  
10 of all the Counties' comments to the DEIS regarding inconsistencies until after signing of  
11 the ROD (through the Protest Resolution Report), which they deem unlawful under the  
12 consistency requirements of FLPMA. (ECF No. 67 at 40.) In support of this argument,  
13 they point to an email exchange between Lauren Mermejo and Holly Prohaska, in which  
14 Holly states that she thinks a decision was made to only address comment by comment  
15 as to the State of Nevada and the Nevada Sagebrush Ecosystem Technical Team's  
16 comments. (NV 51396.) Plaintiffs' argument falls short.

17 FLPMA and its accompanying regulations require only that BLM identify the  
18 inconsistencies brought to its attention by local government officials and state in the  
19 FEIS how BLM addressed them. The statute and regulations are silent on how detailed  
20 or specific BLM needs to be in doing so. Because the Court's review is narrow and  
21 based only on consideration of whether BLM's failure to provide detailed responses to all  
22 identified consistencies with local plans in the FEIS was arbitrary and capricious, the  
23 Court finds that BLM complied with FLPMA's requirements. In the FEIS, BLM  
24 acknowledges that several counties presented similar comments concerning how the  
25 BLM Plan would "restrict resource uses such as minerals and infrastructure development  
26 and would introduce the potential for road or grazing closures," all of which were  
27 inconsistent with the counties' land use plans. (NV 81058.) BLM chose not to resolve  
28

1 identified inconsistencies between the Plan Amendments and the county plans because  
2 doing so “may not be consistent with BLM’s National [GSG] Strategy.” (*Id.*)

3 Plaintiffs also contend that BLM violated its own protest procedures, see 43  
4 C.F.R. § 1610.6-2, by predetermining its responses to county protest letters. (ECF No.  
5 67 at 43.) They rely on a July 19<sup>th</sup> draft briefing paper sent to the DC Office of BLM  
6 summarizing the administrative process for the four Great Basin Plan Amendments to  
7 show that just twenty days after the protests were due, the agency had already  
8 concluded it would deny all 133 protests and therefore had no actual intention of  
9 resolving the protests. (ECF No. 67 at 43.) However, the Court does not find that this  
10 document demonstrates that the BLM Regional offices categorically and without  
11 meaningful review denied all 133 protests. (See GBR 10916 – GBR 10934.) To begin,  
12 the document does not state how many of the 133 protests were sent regarding the  
13 Nevada portion of the Plans. Second, the document does not identify how many  
14 individuals at BLM were reviewing and resolving the protests; rather, another document  
15 in the administrative record shows that fourteen BLM and four Forest Service staffers  
16 processed the letters, with a goal of having the protest resolution report drafted within a  
17 little over two weeks. (FS 88842.) Finally, the document clearly states that the protests  
18 were either denied or resolved. (GBR 10918.) None of this demonstrates that BLM’s  
19 actual intent was to abstain from resolving any of the protests. Moreover, Plaintiffs’  
20 assertion is controverted by the fact that some protests were resolved and that a protest  
21 resolution report for the Nevada and Northeastern California FEIS was ultimately issued  
22 in September 2015. (NV 88789 – NV 89004.)

23 In addition, Plaintiffs contend that they received form responses to their protest  
24 letters, thereby violating FLPMA’s consistency requirement. For example, Eureka County  
25 provided 125 pages of substantive comments to the DEIS, focusing on the  
26 inconsistencies between the proposed land use restrictions and their own policies, and  
27 why Eureka’s plan would provide better sage-grouse conservation and habitat  
28 enhancement while maintaining multiple use. (ECF No. 67 at 42.) Yet, they received the



1 same form letter from BLM that all the other protesters also received. (*Id.*) BLM responds  
 2 that the Agencies began preparing responses only on those issues that had previously  
 3 been raised by the counties in their comments on the administrative draft proposed plan,  
 4 and that early response preparation is typical practice for them. (ECF No. 75 at 39.) This  
 5 is supported by the Protest Resolution Report. There is nothing in FLPMA's statutory  
 6 language or accompanying regulations that makes this process patently unlawful.

7 *ii. Multiple Use Mandate*

8 Plaintiffs allege that BLM ignored FLPMA's requirement to manage public lands  
 9 for multiple-use and sustained yield. (ECF No. 67 at 27, 44.) The Court disagrees.

10 FLPMA requires that particular considerations be given when developing and  
 11 revising land use plans. 43 U.S.C. § 1712(c). These include: (1) consideration of  
 12 principles of multiple use and sustained yield; (2) use of a systematic interdisciplinary  
 13 approach that integrates considerations of physical, biological, economic, and other  
 14 sciences; (3) prioritization of designation and protection of areas of critical environmental  
 15 concern; (4) reliance on inventory of the public lands, their resources, and other values;  
 16 (5) consideration of present and potential uses of public lands; (6) consideration of the  
 17 relative scarcity of the values involved and availability of alternative means and sites for  
 18 realization of those values; (7) balance of long-term benefits to the public against short-  
 19 term benefits; (8) compliance with pollution control laws; and (9) consideration of local  
 20 land use plans. 43 U.S.C. § 1712(c)(1) – (9).

21 Plaintiffs contend that BLM Plan's closure of millions of acres of land for multiple  
 22 use — specifically the proposed withdrawal of 2.8 million acres of land from mineral  
 23 entry,<sup>20</sup> onerous travel restrictions on 16 million acres, and restrictions on grazing — fails  
 24

---

25 <sup>20</sup>Plaintiffs spend a great deal of time in their Motion arguing that BLM's Plan fails  
 26 to manage public lands so as to recognize the Nation's need for minerals, see 43 §  
 27 U.S.C. 1701(a)(12), and that BLM should have performed a mineral potential report  
 28 before proposing withdrawal of those lands from mineral entry. (ECF No. 67 at 28-35.)  
 While the lands that were withdrawn were done so on the recommendation of the BLM  
 under the Plan Amendments, Plaintiffs are not challenging the recommendation to  
 withdraw lands; rather, they are challenging the Notice of Proposed Withdrawal and  
 (...*fn. cont.*)

1 to meet FLPMA's requirement that BLM balance diverse resource uses based on the  
 2 relative values of those resources. (ECF No. 67 at 44.) Plaintiffs insist that BLM provided  
 3 inadequate analysis of the relative value of Nevada resources, based the restrictions to  
 4 multiple use on faulty science, and did not meaningfully consider viable alternatives that  
 5 balanced resources and met local economic goals. (*Id.*) Defendants point to a chapter in  
 6 the FEIS that identifies and discusses socioeconomic effects of the Plan Amendments.  
 7 (ECF No. 75 at 52.)<sup>21</sup>

8 A review of the administrative record shows that BLM considered the relative  
 9 value of Nevada's resources. The FEIS identifies the important industries in the planning  
 10 area, contains specific information about employment in those industries (Appendix U)  
 11 (NV 52876 – NV 52890), and identifies economic losses those industries will face as a  
 12 result of each proposal (Appendix V) (NV 52891 – NV 52908.). (NV 80777 – NV 81026.)  
 13 Defendants' consideration of the socioeconomic impacts for certain land closures and  
 14 land use restrictions may not have been as thorough or as focused on Nevada's mining  
 15 industry as Plaintiffs desired (see ECF No. 75 at 53). However, the Court finds that the  
 16 evidence in the administrative record permitted BLM to make the decision it did. See  
 17 *Occidental Eng'g Co.*, 753 F.2d at 769-70. BLM demonstrates that it considered the  
 18 relevant factors under FLPMA in creating its Plan.

19 Plaintiffs also argue that the net conservation gain mitigation standard is  
 20 inconsistent with FLPMA's multiple use mandate, which allows for some degradation of  
 21 the land. (*Id.* at 46.) Section 1732(b) requires that the Secretary, acting through BLM,  
 22 take "any action necessary to prevent unnecessary or undue degradation of the lands."  
 23 43 U.S.C. § 1732(b). Plaintiffs contend that this standard of "unnecessary or undue

24 (*...fn. cont.*)

25 Temporary Segregation of these lands, which occurred subsequent to the filing of this  
 26 action. There is no reason that Plaintiffs cannot challenge the segregation, the basis for  
 27 it (i.e., the classification of certain public lands as SFA), or the Secretary's failure to  
 28 require a mineral potential report before accepting BLM's recommendation to withdraw  
 the lands.

<sup>21</sup>Appendix V to the FEIS also contains information concerning the economic  
 impacts of the alternative plans on various industry sectors.

1 degradation” maintains multiple use and is not a zero-impacts standard. (*Id.*) They argue  
2 that the net conservation gain goes beyond a zero-impacts standard to require that  
3 multiple uses of public lands actually improve sage-grouse habitat. (*Id.* at 47.)

4 Defendants contend that the “unnecessary or undue degradation” standard in the  
5 statute does not preclude the agency from establishing a more protective standard that  
6 seeks improvements in land conditions that “go beyond the status quo.” (ECF No. 75 at  
7 44-45.) The FEIS states that if actions by third parties result in habitat loss and  
8 degradation, even after applying avoidance and minimization measures, then  
9 compensatory mitigation projects will be used to provide a net conservation gain to the  
10 sage-grouse.” (NV 79683.) The Agencies’ goals to enhance, conserve, and restore  
11 sage-grouse habitat and to increase the abundance and distribution of the species, they  
12 argue, is best met by the net conservation gain strategy because it permits disturbances  
13 so long as habitat loss is both mitigated and counteracted through restorative projects.  
14 (See ECF No. 75 at 67-68.) If anything, this strategy demonstrates that the Agencies  
15 allow some degradation to public land to occur for multiple use purposes, but that  
16 degradation caused to sage-grouse habitat on that land be counteracted. The Court fails  
17 to see how BLM’s decision to implement this standard is arbitrary and capricious.  
18 Moreover, the Court cannot find that BLM did not consider all relevant factors in  
19 choosing this strategy, as it appears to possess elements proposed in the DEIS. (See  
20 NV 44876 –80.)

21 In sum, Plaintiffs fail to establish that BLM’s challenged decisions under FLPMA  
22 are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

23 **b. NFMA**

24 Plaintiffs allege that the Forest Service ignored NFMA’s multiple-use mandate.  
25 Only Humboldt and Eureka Counties contain public lands managed by the Forest  
26 Service and may therefore bring this challenge.

27 NFMA requires that in developing, maintaining, and revising plans for units of the  
28 National Forest System, the Forest Service provide for multiple use and sustained yield

1 and include coordination of outdoor recreation, range, timber, watershed, wildlife and  
2 fish, and wilderness. 16 U.S.C. § 1604(e)(1). Multiple use requires that renewable  
3 resources be utilized to best meet the future needs of the American people while  
4 considering impacts to the environment. See 16 U.S.C. § 1600(3).

5 Plaintiffs contend that the SFA withdrawal zones,<sup>22</sup> travel restrictions on 16 million  
6 acres of land, and grazing restrictions violate the multiple-use mandate of NFMA. (ECF  
7 No. 67 at 45.) They also challenge that the FEIS violates multiple-use principles because  
8 it closes millions of acres of land to important uses, replaces “no unmitigated loss” with a  
9 requirement for “net conservation gain,” and creates uniform lek buffers that are “no-go  
10 zones.” (*Id.*) Defendants respond that the various restrictions in the Plan Amendments  
11 aim to conserve and enhance sage-grouse habitat, which is within their discretion. (ECF  
12 No. 75 at 43.)

13 The Court’s review of whether the Forest Service Plan violates NFMA’s multiple  
14 use mandate is necessarily narrow, and it may consider only whether the Forest Service  
15 contemplated all relevant factors in making its determination. First, it is unclear to the  
16 Court how travel and grazing restrictions manifest the Forest Service’s failure to consider  
17 multiple use. To the contrary, the restrictions demonstrate a balance between  
18 conservation of greater-sage grouse habitat and sustainable human use of natural  
19 resources. Second, the Court fails to see how multiple use mandates that any particular  
20 parcel of land be available for any particular use. (See ECF No. 95 at 29). While  
21 Plaintiffs point out certain land closures in the USFS Plan, such as complete exclusion of  
22 new solar and wind energy projects (on SFA, PHMA, and GHMA), the Plan does not  
23 exclude all possible human uses on those lands. Finally, Plaintiffs fail to demonstrate  
24 how the “net conservation gain” and lek buffer zones preclude multiple use or  
25 demonstrate a failure on the part of the Forest Service to consider all relevant factors. In  
26

---

27 <sup>22</sup>Plaintiffs largely focus on how mineral withdrawal violates multiple use. As noted  
28 previously, because the Plan Amendments did not mandate mineral withdrawal, Plaintiffs  
must challenge the segregation directly.

1 fact, the move from “no unmitigated loss” in the DEIS to “net conservation gain” in the  
2 FEIS demonstrates that the Forest Service reconsidered whether their initial standard  
3 consistently balanced sustainable human use with adequate habitat conservation.

4 The Court thus finds that Plaintiffs fail to show that the challenged decisions of the  
5 Forest Service are arbitrary, capricious, an abuse of discretion, or otherwise not in  
6 accordance with law.

7 **c. NEPA**

8 NEPA provides for public participation in assessing a proposed action’s  
9 environmental consequences, enabling the public to “play a role in both the  
10 decisionmaking process and the implementation of that decision.” *Robertson*, 490 U.S.  
11 at 349. Although NEPA lacks a substantive mandate, its “action-forcing” procedural  
12 requirements help carry out a “national commitment to protecting and promoting  
13 environmental quality.” *Id.* at 348. As part of these action-forcing requirements, NEPA  
14 mandates that agencies considering “major Federal actions significantly affecting the  
15 quality of the human environment” must, to the fullest extent possible, prepare an  
16 environmental impact statement (“EIS”). 42 U.S.C. § 4332(C); 40 C.F.R. § 1508.11.

17 The EIS “shall provide full and fair discussion of significant environmental impacts  
18 and shall inform decisionmakers and the public of the reasonable alternatives which  
19 would avoid or minimize adverse impacts or enhance the quality of the human  
20 environment.” 40 C.F.R. § 1502.1. “[T]he EIS process should serve both to alert the  
21 public of what the agency intends to do and to give the public enough information to be  
22 able to participate intelligently in the EIS process.” *State of California v. Block*, 690 F.2d  
23 753, 772 (9th Cir. 1982).

24 After an agency has prepared a draft or final EIS, the agency must issue a  
25 supplemental environmental impact statement (“SEIS”) if “[t]here are significant new  
26 circumstances or information relevant to environmental concerns and bearing on the  
27 proposed action or its impacts.” 40 C.F.R. § 1502.9(c)(1)(ii). In determining whether the  
28 agency should prepare an SEIS, the Ninth Circuit has asked courts to make “pragmatic



1 judgment: (1) whether the alternative finally selected [ ]was within the range of  
2 alternatives the public could have reasonably anticipated the [agency] to be considering,  
3 and (2) whether the public's comments on the draft EIS alternatives also apply to the  
4 chosen alternative and inform the [agency] meaningfully of the public's attitudes toward  
5 the chosen alternative.” *Block*, 690 F.2d at 772. The touchstone is whether the change  
6 “will have a significant impact on the environment in a manner not previously evaluated  
7 or considered.” *Westlands Water Dist. v. U.S. Dep’t of Interior*, 376 F.3d 853, 873 (9th  
8 Cir. 2004) (citation omitted); see also *N. Idaho Cmty. Action Network v. U.S. Dep’t of*  
9 *Transp.*, 545 F.3d 1147, 1157 (9th Cir. 2008).

10 Plaintiffs argue that changes made between the DEIS and the FEIS compel the  
11 Agencies to prepare an SEIS because the changes were substantial and Plaintiffs were  
12 denied the opportunity to comment on these changes as they are entitled to do under  
13 NEPA. (See ECF No. 67 at 45.) The substantial changes that Plaintiffs identify cover  
14 changes to the lek buffer requirements, the designation of 2.8 million acres of Focal  
15 Areas in Nevada, the application of a “net conservation gain” mitigation strategy, and the  
16 use of hard-trigger adaptive management strategies. (*Id.* at 15.) The Court agrees with  
17 Plaintiffs’ that the designation of 2.8 million acres as Focal Areas in Nevada amounts to  
18 a substantial change relevant to environmental concerns, requiring the Agencies to  
19 prepare an SEIS.

20 The FEIS designated 2.8 million acres as SFA, which caused an additional  
21 722,800 acres to be designated as PHMA, turned 436,000 acres of GHMA into PHMA,  
22 turned 211,100 acres of OHMA into PHMA, and turned 75,100 acres of non-habitat into  
23 PHMA. (NV 5523.) Defendants admit that approximately 21,611 acres were identified in  
24 the DEIS as non-habitat and then became SFA in the FEIS. (ECF No. 75 at 59.) The  
25 Agencies based their changes and additions of what lands were designated as sage-  
26 grouse habitat on data presented to them by FWS. (*Id.*) Defendants contend that the use  
27 of new information to adjust the number of acres subject to different management  
28 regimes does not require an SEIS. (See *id.* at 63.) The Court disagrees.

1 The decision to designate certain lands as particular kinds of sage-grouse habitat  
2 affects subsequent management decisions on those lands. The Agencies used the new  
3 information from FWS to include low priority habitat and non-habitat as SFA and failed to  
4 explain why it designated already developed areas as priority habitat in the final FEIS.  
5 The public should have had an opportunity to review FWS's determinations and  
6 comment on the decision to change or add new designations. In fact, the public could  
7 not have "reasonably anticipated" the Agencies to be considering developed areas as  
8 priority habitat or transforming low priority habitat and non-habitat into SFA. Particular  
9 lands, no matter how few, that prior to publication of the FEIS were not subject to any  
10 type of management decisions became subject to the most extreme of management  
11 decisions in the final Plan Amendments. For example, the change in designation from  
12 the DEIS to the FEIS resulted in the apparently erroneous and undisputed designation of  
13 the town of Eureka as PHMA. Moreover, Eureka County asserts, and Defendants do not  
14 dispute, that Eureka County's landfill, power lines, subdivisions of homes, farms with  
15 alfalfa fields and irrigation systems, hay barns, and important portions of the Diamond  
16 Valley area, are now classified as PHMA.<sup>23</sup> The DEIS would not have alerted the County  
17 or the public that the Agencies would designate these developed areas as PHMA and, in  
18 turn, did not allow for intelligent public participation in the EIS process. *See Block*, 690  
19 F.2d at 772.

20 While the addition of SFA did not change the management decisions already  
21 contemplated in the DEIS, the change affect where those decisions would apply such  
22 that the public did not have enough information to be able to meaningfully participate in  
23 the EIS process. The Court finds that the change in designation amounts to "significant  
24 new circumstances or information relevant to environmental concerns and bearing" on

---

25 <sup>23</sup>The decision to designate these areas as sage-grouse habitat is so implausible  
26 that it cannot be ascribed to a difference in opinion. *See Motor Vehicle Mfrs. Ass'n of*  
27 *U.S., Inc.*, 463 U.S. at 43. Moreover, given the travel restrictions on PHMA, these  
28 designations of Eureka County land as PHMA has placed restrictions on effectuating  
environmental programs, including invasive weed reduction and water management.  
(ECF No. 67-3 at 7.)

1 the impact of the Plan Amendments, requiring the Agencies to prepare an SEIS. See 40  
2 C.F.R. § 1502.9(c)(1)(ii).

#### 3 **IV. RELIEF REQUESTED**

4 The relief that Plaintiffs request in connection with the claims that the Court finds  
5 in their favor on the merits — NEPA claim — is that the Court vacate the RODs and  
6 remand them to the Agencies to prepare an SEIS.<sup>24</sup> (ECF No. 67 at 48.) Intervenors  
7 argue that neither injunctive relief nor vacatur is appropriate given the scope of the  
8 alleged violation and the potential impacts to the sage-grouse. The Court agrees with  
9 Intervenors.

10 Courts have “discretion to shape equitable remedy.” *W. Oil and Gas Ass’n v.*  
11 *EPA*, 633 F.2d 803, 813 (1980). Even where the court has found that the agency failed  
12 to comply with the APA, “when equity demands, the regulation can be left in place while  
13 the agency follows the necessary procedures.” *Idaho Farm Bureau Fed. v. Babbitt*, 58  
14 F.3d 1392, 1405 (9th Cir. 1995).

15 As the Ninth Circuit has recognized, the remedy for procedural violation under the  
16 APA can be “the most difficult issue of all.” See *W. Oil*, 633 F.2d at 813. In *Western Oil*,  
17 the EPA had failed to notify the public in advance of its intention to adopt certain states’,  
18 including California’s, proposed attainment designations, which when approved by the  
19 EPA would become enforceable regulations under the Clean Air Act. The EPA also did  
20 not allow for public comment as required under the APA. Instead, the EPA published the  
21 attainment designations and then “declared them ‘immediately effective’ and solicited  
22 comments with a promise to publish revised designations as appropriate.” *Id.* at 805. The  
23 Ninth Circuit found the EPA violated the APA, but recognized that “[w]hether to leave the  
24 challenged designations in effect during the reenactment of the deliberative process is a  
25 difficult question.” *Id.* at 813. In declining to vacate the challenged designations, the  
26

---

27 <sup>24</sup> Plaintiffs also request that the Agencies prepare a Mineral Potential Report to  
28 be used in the NEPA process, but this part of their request relates to the Notice of  
Withdrawal.

1 court expressed concerns about disrupting the implementation of the Clean Air Act in  
2 California and was “influenced by the possibility of undesirable consequences which [the  
3 court] cannot now predict that might result from invalidation of the designations.” *Id.*

4 Here, the Court is similarly “influenced by the possibility of undesirable  
5 consequences.” The parties do not dispute that protecting the greater sage-grouse  
6 species and their habitat is an important goal. The State and several of the counties  
7 argue that existing state and local land use plans provide for the greater sage-grouse’s  
8 protection, thus recognizing that a certain level of protection is warranted. Moreover,  
9 FWS found in part that “listing the greater sage-grouse (rangewide) is warranted, but  
10 precluded by higher priority listing actions,” and that existing regulatory mechanisms  
11 available to federal agencies were essentially inadequate to provide for the species’  
12 protection. (75 Fed. Reg. 13910, 13982 (Mar. 23, 2010).) In balancing such potential  
13 harm to the greater sage-grouse species with the Agencies’ violation of NEPA—which  
14 the Agencies may cure with an SEIS—the Court finds that protection of the greater-sage  
15 grouse weights against vacatur of the RODs. Enjoining implementation of the Plan  
16 Amendments pending the Agencies’ preparation of an SEIS presents “the possibility of  
17 undesirable consequences” to the greater sage-grouse species and their habitat.  
18 Accordingly, Plaintiffs’ injunctive relief request is denied.

## 19 **V. CONCLUSION**

20 The Court notes that the parties made several arguments and cited to several  
21 cases not discussed above. The Court has reviewed these arguments and cases and  
22 determines that they do not warrant discussion as they do not affect the outcome of the  
23 parties’ Motions.

24 It is therefore ordered that Plaintiffs’ and Defendants’ competing motions for  
25 summary judgment (ECF Nos. 69, 75) are denied in part and granted in part. The Court  
26 grants summary judgment in favor of Defendants on all claims except for Count IV with  
27 respect to Plaintiffs Eureka County and Humboldt County. With respect to this count, the  
28 Court grants summary judgment in favor of Eureka County and Humboldt County on

1 their claim that the Agencies failed to comply with NEPA. The Court remands the  
2 Records of Decision to the Agencies to prepare a supplemental environmental impact  
3 statement consistent with this Order.

4 It is further ordered that Intervenor's Motion for Summary Judgment (ECF No. 77)  
5 is denied in part and granted in part. It is granted with respect to Intervenor's request  
6 that the Court not vacate the RODs or enjoin implementation of the RODs.

7 It is further ordered that Plaintiffs' Motion to Supplement Record (ECF No. 68) is  
8 denied as moot.

9 It is further ordered that Defendants' Motion to Strike (ECF No. 102) is granted in  
10 part and denied in part. It is denied with respect to paragraphs 1 through 3 in Exhibit 1. It  
11 is granted with respect to the remainder of Exhibit 1 and with respect to Exhibits 2 and 6.

12 The Clerk is directed to enter judgment consistent with this Order and close this  
13 case.

14 DATED THIS 31<sup>st</sup> day of March 2017.

15  
16  
17 

18 MIRANDA M. DU  
19 UNITED STATES DISTRICT JUDGE  
20  
21  
22  
23  
24  
25  
26  
27  
28